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THE MEXICAN OIL INDUSTRY SINCE EXPROPRIATION II*

UNDER the agreement of November 1941 between Mexico and the United States, the experts named by the two governments took up the question of indemnification for the oil properties expropriated in 1938. On April 18, 1942, it was announced that (with the endorsement of their respective presidents) they had fixed $23,995,991 as the value of the American-owned oil properties. Meanwhile, on the eve of this accord, the associated phases of economic collaboration with Mexico, likewise arranged in November 1941, had been supplemented by understandings published earlier in April. All of these steps have important bearings upon intergovernmental relations in the provision of capital and equipment and the management of priorities, not only in behalf of existing public enterprises but more generally for strategic industrialization south of the Rio Grande. Detailed comment upon the new arrangement, as well as upon the experts' oil appraisal, may appropriately follow an account of the trading fortunes, the labor costs and controversies, and the financial position of the Mexican oil industry since its nationalization on March 18, 1938.

*The first installment of this article, dealing with expropriation and the subsequent issue of indemnification, appeared in the March 1942 issue of the QUARTERLY. Acknowledgement is made of assistance from the Council for Research in the Social Sciences of Columbia University in studies that have contributed to the background of this article.

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Marketing Problems

Within six weeks after the expropriation decree, economic conditions in Mexico were approaching a crisis. The peso plunged from an exchange rate of 3.6 to 1 United States dollar in 1938 to 6.0 to 1 in December 1939.[66] It may well be that some of this decline would have come regardless of expropriation. But the stoppage of Mexico's oil exports hastened and deepened the predicament.

Mexico acquired production facilities by expropriation; it could not expropriate markets. At the time, about forty-five per cent of the output of petroleum and petroleum products was disposed of within the country; the rest was exported.[67] The large foreign oil companies had efficient refining as well as far-flung marketing organizations which made easy the disposal of their Mexican production. Mexican commentators have accused the companies of uniting after expropriation to coerce Mexico into a surrender by virtual blockade.[68] It is certainly an understatement to say that the companies individually were indisposed to coöperate with the new owner of their properties. It was natural, too, if not strictly in the supposed rôle of competitive enterprise, that equipment houses should feel a community of interest with the oil producers when approached by Mexico with proposals for barter.[69] The word "boycott" seems justified.

[66] Charles A. Thomson, "The Mexican Oil Dispute", *Foreign Policy Reports*, vol. 14, No. 11, August 15, 1938, p. 131. *Cf.* also *The Oil and Gas Journal*, February 1941, p. 37. The peso has subsequently regained some of the lost ground. The exchange rate in December 1940 was 20.80 (4.8 pesos to one dollar); on December 1, 1941, 20.70, where it likewise stood at the end of April 1942. But the cost of living in Mexico has risen. Taking 1934 as 100, the index was 160 in 1939, while wages had increased only by 25 to 35 per cent.

[67] Professor Silva Herzog states that in 1937, 24,961,350 barrels or 53.2 per cent of the production was exported (7,458,798 barrels as crude and the rest as derivatives); in 1938, 14,692,561 barrels or 38.2 per cent (4,840,225 barrels as crude oil); in 1939, 19,219,769 barrels or 44 per cent (12,398,773 barrels as crude); in the first six months of 1940, 9,832,662 barrels or 48.3 per cent (6,690,376 as crude). *Petróleo Mexicano*, pp. 209-10.

[68] J. J. March, "Mexican Oil Faces the Crisis", *Hoy*, November 30, 1940.

[69] Not only supply houses, but also official Washington circles, are said to have yielded to the pressure brought by the expropriated companies. I. F.

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New foreign outlets had to be found. New devices of barter seemed necessary. Some of the Latin American countries, beginning with Uruguay, Brazil and Chile, risked the displeasure of their normal suppliers by taking Mexican petroleum.[70] This was a token of regional solidarity rather than massive support; the total exports to Latin America were 460,000 barrels in 1939 against 1,318,000 in 1937. The situation was ripe for roving intermediaries. In 1938 W. R. Davis arranged for the sale of large quantities of Mexican oil to Germany.[71] Mexico, blocked in other directions, and also by France,[72] found much needed customers in the Axis Powers. Exports, which had amounted to 2,441,498 barrels in 1938 and had probably been negotiated by the British company *El Aguila*, reached the sizable quantity of 2,097,044 in 1938 following expropriation, and 1,498,383 barrels in the period from January 1939 to the outbreak of the war on September 1. Unable to pay cash for all its oil purchases — in July and August 1939, about fifty per cent were paid in United States dollars—Germany worked out a barter arrangement for the supply of machinery (including electrical installations), pipe-conduits, and other German-made goods. During this time Germany was a valuable client of the Mexican oil sales agency.[73] The example of Germany was followed by Italy through the *Azienda Generale Italiana Petroli.* Rayon and

Stone, "The Squeeze on Mexico", *The Nation*, November 30, 1940, gave this example: "On April 5 the Navy Department opened bids on a half-million barrels of fuel oil. The lowest bid was 79c., made by Eastern States Petroleum. The next bid, made by Henry Sinclair's Oil Company, was 87c. The highest bid was 89c. a barrel. The Navy Department chose to buy from the highest bidder—Standard Oil. It rejected the lower bids because it did not wish Mexican oil, and in doing so it joined in the boycott by which Standard Oil had been putting the squeeze on Mexico. Henry Sinclair was to be punished for breaking the 'united front' of the oil companies and making a deal with Mexico. Eastern States Petroleum had brought down on itself the animosity of Standard Oil by refining and marketing Mexican oil in the United States."

[70] March, *loc. cit.;* Silva Herzog, *Petróleo Mexicano*, p. 206.

[71] Around this deal was wound a fantastic tale. See *PM*, December 13, 1940, and for a biting rejoinder, *Mexican Labor News*, May 16, 1941.

[72] Silva Herzog, *Petróleo Mexicano*, pp. 200-3.

[73] *Ibid.*, pp. 203, 211.

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other products were to be bartered for Mexican petroleum. Shipments to Italy, which amounted to 187,240 barrels in 1937, increased to 259,107 barrels in 1938 and to 3,315,972 barrels in 1939; further exports of 3,212,820 barrels were made in the first half of 1940 before they were shut off by Italy's entrance into the war.[74] Japan also seemed attentive to Mexico as a possible source of needed oil. Actual purchases were limited; only 189,000 barrels were taken in 1939. A Mexican trade commission went to Japan in March 1940 to work out a barter scheme.[75] In the course of two years Mexico supplied upward of 10,000,000 barrels of oil toward the war stocks of the three totalitarian nations. Whatever irony there is in this fact is overshadowed by the larger ironies of United States trade in the same period.

The outbreak of war in September 1939 gave a sharp setback to the Mexican petroleum industry, which in other circumstances might conceivably have bridged its necessities by mastering the art of barter. By December 1939, receipts from the sale of petroleum abroad were sixty-four per cent below their volume in July.[76] This was not the only blow caused by the war. Ever since expropriation Mexican oil exports had been hampered by lack of tankers.[77] Contracts were made with Italy for three ten-thousand-ton tankers to cost $3,700,000, payable in oil. The oil was shipped but the delivery of the tankers has been prevented by the war.[78] Exports in 1941

[74] *Ibid.*, pp. 210-11.

[75] *Excelsior*, March 17, 1940.

[76] March, *loc. cit.*

[77] Fairly soon after expropriation four vessels were purchased for about $1,800,000. Later the tanker *Los Angeles* was bought from the Union Oil Company by the Mexican Shipping and Trading Company, a U. S. corporation all of whose stock is owned by *Petróleos Mexicanos*, which now boasts a fleet of nineteen ships. In addition, 1,308 railroad tank cars and 507 motor vehicles service distribution. *El Popular*, December 31, 1941.

[78] "Mexico Wrestling with Acute Problem of Oil", *World Petroleum*, May 1941, p. 24. This is the current version, but the Italian legation in Mexico published a statement that Italy owed only $911,744 on the deal and that for oil undelivered by *Petróleos Mexicanos*. *Instituto de Estudios Económicos y Sociales*, "Albayalde en vez de la Verdad sobre el Petróleo", *El Economista*, April 1, 1941, p. 29.

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were lower than in 1940 as in the latter year there were still restricted marketing facilities in Europe and Asia.[79]

Even in the supply of its own market Mexico has been handicapped until recently by lack of delivery facilities. A large region in western Mexico has been served by sending government vessels through the Panama Canal — a circuit of some seven thousand miles.[80] Whether because of the disrepair of refineries in Mexico, as charged,[81] or for other reasons, *Petróleos Mexicanos* (*Pemex*) has shipped crude oil to refineries in Houston and has in turn brought the refined product back into Mexico. The difficulties of transportation have been aggravated, moreover, by insufficient storage facilities.

[79] According to an announcement by *Petróleos Mexicanos* printed in the daily papers (see, for instance, *El Popular*, December 31, 1941), supplemented by the report of the general manager of *Petróleos Mexicanos* (published in the press on March 23, 1942), exportations had the following dollar value:

1938	8,980,000	1940	17,290,000
1939	14,340,000	1941	15,300,000

By way of partial compensation for the drop in volume exported, *Pemex* obtained a general average price of 96 Mexican cents per exported barrel in 1941 compared with 89 cents in 1940.

[80] *Bulletin of the Imperial Institute*, vol. 38, 1940, pp. 244-47.

[81] "Critics Cite Decay of Mexican Industry", *World Petroleum*, May 1941, p. 31, where it was said: "As a direct result of their state of disrepair, the Mexican refineries have become unable to supply enough gasoline for domestic consumption. . . . This situation represents a marked reversal from pre-expropriation conditions . . . through the decay of its refineries, the Mexican oil industry is slipping back to the condition of an extractive industry."

Other sources state that in 1936 only 27.8 per cent of the total exports was in the form of crude oil; the rest was in the form of manufactured products. In the first six months of 1940, 68 per cent of all exportations was in the form of crude. The percentages for refined gasoline are 17 and 0.1. Experts' Report, October 31, 1940, sec. 14, reprinted in part by Silva Herzog, *Petróleo Mexicano*, pp. 285 *et seq.*

But evidently this situation is improving. The general manager reports on March 22, 1942 (*Excelsior*, March 23, 1942): "The total barrels processed during 1941 in all our refineries was approximately 35,000,000, against 30,000,000 treated in 1940. This indicates an increase of fifteen per cent and reveals that this branch of the petroleum industry . . . has been able to subsist and even to increase, thus defeating the predictions of those who believe that the collapse of our industry was inevitable because we could not maintain operations, longer than a few months, in the refineries which had been left us by the expropriated companies in a maximum state of deterioration." In 1941 *Pemex* invested 13,190,000 pesos for the improvement of its refining plants.

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With the closing of Mexico's outlets through bartering with Axis countries, the United States perforce became the prime export market for *Petróleos Mexicanos*. This reverses the previous trend.[82] Despite the criticism of expropriation and in the face of the import duty of 21 cents a barrel to which the bulk of Mexican shipments to the United States have been subject,[83] the United States rapidly assumed the lead among Mexico's customers. In 1938, oil imports, crude and derivatives, from Mexico were 3,326,614 barrels, and in 1939, 5,860,150. In the first six months of 1940, they amounted to 5,428,011 barrels,[84] and were reported as totaling 12,649,000 barrels for the entire year, while Italy ranked second with 3,212,820 barrels and Japan a poor third with 760,000. No other outlet for Mexican oil was significant. The close of 1941 found the United States even more emphatically Mexico's single important field for petroleum export.

[82] "In the early 1920's Mexico supplied almost all United States oil imports, but its share fell off rapidly in the latter years of the decade. From 1929 to the expropriations in 1938 the Mexican share was regularly 13 or 14 per cent with the exception of 1935 and 1937. In 1938, the figure was 5.4 per cent, and it fell further in 1939." William Diebold, Jr., "Oil Import Quotas and 'Equal Treatment'", *The American Economic Review*, September 1940, p. 570. In 1939, 3.8 per cent of U. S. imports of crude petroleum came from Mexico, 71.9 from Venezuela, and 24.3 from all other countries. *Ibid.*, p. 573.

[83] The proclamation of the President of the United States on December 12, 1939, establishing import quotas under the reciprocal trade agreement with Venezuela, benefited Mexico only to a degree. The agreement provides for a fifty per cent reduction in duty on not more than five per cent of the total amount of crude petroleum processed in refineries in the continental United States during 1938. Imports were pro-rated for 1940 as follows: 71.9 per cent was assigned to Venezuela; 20.3 per cent to the Netherlands, including the Dutch East Indies and West Indies; 4 per cent to Colombia; and to all other countries, including Mexico, 3.8 per cent. United States Tariff Commission, *The Foreign Trade of Latin America*, Part II, Section 17, "Mexico" (Washington, 1940), p. 99.

Under this pro-rating scheme Mexico could conceivably export to the United States, subject to a duty of 10½c. per barrel, 3,800,000 barrels. Only 2,204,000 barrels of a total export by Mexico to the United States of 12,649,000 barrels were so treated in 1940, however. *The New York Times*, October 3, 1941.

[84] Silva Herzog, *Petróleo Mexicano*, p. 210; *cf.* also United States Tariff Commission, *op. cit.*, pp. 90-93, and *Seis Años de Gobierno al Servicio de México 1934-1940*, p. 205.

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It is at least superficially inconsistent that the largest oil-producing country in the world should be Mexico's prime outlet. Certainly it deepens Mexico's dependence on the United States.[85] But the outcome was invited by the implacable stand of the ousted British companies and the aloofness of Great Britain itself.[86]

Meanwhile Mexican home consumption of petroleum products has increased notably.[87] President Avila Camacho assured

[85] The background of the interrelated trade between the two countries is shown in the following table (United States Tariff Commission, *op. cit.*, p. 77):

UNITED STATES IMPORTS FROM AND EXPORTS TO MEXICO

(Value in thousands of dollars)

	Imports				*Exports*	
	Mdse.	*Silver*	*Gold*	*Total Imports from Mexico as % of U. S. Imports from Latin America*	*Value*	*Per cent of U. S. Total Exports to Latin America*
1925	178,835	41,458	5,097	21.0	144,720	17.1
1931	47,612	16,035	25,319	12.6	52,366	16.8
1937	60,120	30,802	39,250	16.4	109,450	18.9
12 mos., Sept.–Aug.						
1938–39 ...	50,606	31,428	33,641	18.4	70,200	14.3
1939–40 ...	75,357	26,199	37,770	18.2	91,886	12.5

Mexico's percentage distribution of all American exports was 3.3 in 1937 and 2.4 in 1940; of all American imports, 1.9 in 1937 and 2.9 in 1940. International Reference Service, *Summary of Foreign Trade of the United States—Calendar Year 1940* (Washington, 1942), p. 42. In 1940, the United States supplied almost 80 per cent of Mexico's imports and took about 90 per cent of her exports. Paul V. Horn, "Mexico—Our War Ally", *Economic Record* (National Industrial Conference Board, Inc.), March 1942, p. 87.

[86] "There is nothing in the British oil situation to compel the British Government in its own interests to reopen negotiations. Britain's oil supplies are largely obtained from Venezuela (where the oil companies' present relations with the government are satisfactory), Persia and the United States. Mexico has no advantages to offer which are lacking at these other sources of supply. Too ready a compromise with the original demands of the Mexican Government, which were, and still are, regarded as grossly unjust, might give rise to desires for annulation in other Latin American countries. Finally, it is, after all, the Mexicans' problem to sell their oil." *The Economist*, March 1, 1941, p. 267.

[87] President Avila Camacho, in his message to Congress on September 1, 1941, attributed the upswing in the oil industry to two factors, particularly:

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the Congress in 1941 that this development "allows us the certainty that we shall soon be independent of the international market." Home sales, which had a value of 154,633,510.31 pesos in 1938, amounted to 191,368,000 pesos in 1940 and to 222,000,000 in 1941. The President hailed the tendency as desirable.[88] "It is a fact", stated his message, "that any industry in the process of development must have within the country in which it is working a market sufficiently broad so that it can establish thereon the firm and stable basis which will allow it to take the successive steps required by its regular development." *Pemex* prides itself that it, as a true organization of public service, subordinating its own interests to those of the general interest, maintained in 1941 for unrestricted quantities the same price level that prevailed four years ago while other countries raised prices and curtailed consumption. Quite apart from highway improvement and a mounting tourist trade, a large internal use of oil is likely to contribute indirectly to the vitality of the country's whole economy. But the export of oil has been an important factor in Mexico's pattern of public revenue and international exchange.[89] Could it do without this factor? Presumably a middle course is possible whereby a predominantly domestic consumption will yet leave a reasonable surplus capable of advantageous disposal in the world's markets.

Such calculations, of course, are conditioned by the outlook for the life of the fields, modified by new exploration and development. The experts' committee (*Comisión Pericial en el*

the tremendous increase in tourist travel and the road-building program, with its reaction of the use of motor vehicles. In addition the railways are said to be using appreciably larger quantities of oil products. "Mexican Oil Industry Nearing Critical Situation", *World Petroleum*, November 1941, p. 26. *El Universal*, September 2, 1941.

[88] Plans for 1941 proposed that the distribution of "Mexolina 70" be extended to all paved roads and the octanage thereof be increased to 72 as a minimum. More service stations were to be opened, including some restaurants and lodging facilities. "Mexico Wrestling with Acute Financial Problem of Oil", *World Petroleum*, May 1941, p. 26.

[89] A gloomy view was expressed in "Mexican Oil Industry Nearing Critical Situation", *World Petroleum*, November 1941, p. 25.

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Secundo Conflicto de Orden Económico de la Industria del Petróleo) appointed in 1940 calculated that the fields of Pánuco, Faja de Oro and part of the Isthmus are in a period of decline and that further drilling operations would no longer be profitable. The only field that has an assured life, they stated, is that of Pozo Rica, and that is not longer than ten years.[90] This sober forecast may be offset by new explorations. So far as it is true, however, it suggests the unwisdom of casting Mexico's long-run economic future heavily in terms of export oil.

Labor Costs and Controversies

The embarrassments of *Petróleos Mexicanos* in marketing its products outside the country have been attended within its own organization by a struggle to keep down labor costs. The resulting strains have a double interest, because of labor's original rôle in oil expropriation, on the one hand, and, on the other, the emphasis in Mexico upon workers' participation in the conduct of public enterprises. About a month after oil expropriation the nationalized railways were turned over to a board of seven chosen wholly by the railway workers' union.[91] In organizing the newly acquired oil industry, of course, the government was not willing to allow so much devolution. Mexico's petroleum resources, in the opinion of President Cárdenas, belonged to the whole people, not to the less than

[90] On the outlook for oil reserves generally, see Ronald B. Shuman, *The Petroleum Industry* (Norman, Okla., 1940), p. 282.

In order to make the most profitable use of its richest field, the management plans an investment of 75,000,000 pesos, chiefly for installations that return to the field the dry gases and utilize all the wet gases. If equipment is obtained, drilling will be undertaken at once in geologic structures adjacent to existing fields in the Isthmus, State of Tabasco, in an area where oil production is deemed to have peculiarly strategic value.

[91] Arthur W. Macmahon, "The Mexican Railways under Workers' Administration", *Public Administration Review*, vol. I, No. 5, Autumn 1941, pp. 458-71. By law of December 24, 1940, the managing board was reconstituted to consist of four persons chosen by the government and three chosen by the union. In 1941 the union representatives withdrew but subsequently returned. Mexican labor thought now seems to run against the idea, not only of producers' coöperatives, but also of direct workers' control in public enterprises.

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twenty thousand workers engaged in the industry. The union was allowed to select a minority of the directing board of *Petróleos Mexicanos*. Governmental operation began with expectations on the workers' side; it has been accompanied by painful efforts at economy and discipline from the side of the government.

In the first weeks after expropriation the workers showed abnegation and a consciousness of responsibility. Their enthusiasm made it possible to overcome the many handicaps confronting the new setup. Not the least were those created by the companies. Soon, however, moods of another sort were evident among the workers. The new management was anxious to put the provisions of the labor court's award of December 18, 1937 into operation. Although understandable from a social standpoint, economically this attempt was perhaps precipitate and ill-conceived. True, salaries and wages were cut, ostensibly temporarily, from eight to fifteen per cent, and the workers did not demand the immediate payment of the indemnification for cancellation of labor contracts owed by the foreign companies, but expenses for some services, such as medical care and rental allowances, exceeded those laid down by the award.[92]

After expropriation, it was found that "the generals and colonels had been slain on the battlefield; left were only sergeants, lieutenants, captains, a few majors, and one or two lieutenant-colonels." Restaffing was imperative; there was no time to haggle over the niceties of who should or who should not be a "confidential" employee. The coöperation of the petroleum workers' union was solicited; it was cheerfully granted but at a heavy price. It was natural that union leaders should slip into many of the most responsible and lucrative positions. With the exception of the managers of *Petróleos Mexicanos* and *Distribuidora de Petróleos Mexicanos*, in addition to the director of *Administración General del*

[92] Silva Herzog, *Petróleo Mexicano*, pp. 228-29. In 1941 a saving of 1,800,000 pesos over 1940 was effected in the medical department through improved administrative measures. Report of the general manager, *Excelsior*, March 23, 1942.

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Petróleo Nacional and about ten other high officials, the prominent figures in the oil syndicate were beneficiaries of expropriation. "Departments" grew like mushrooms in the administration of *Petróleos Mexicanos* as department chiefs received a salary of 1,195 pesos a month. Meanwhile department chiefs in the *Banco de México,* for instance, were paid 850 pesos. The same preferment was found in the lower rungs of the ladder. Section chiefs of *Petróleos Mexicanos* received 900 pesos, those of the *Banco de México,* 500, and in ordinary federal departments, from 340 to 450 pesos.[93]

The number of personnel swelled. On March 18, 1938 there were 14,368 regular and 1,527 temporary persons in the employ of the companies; a year later the numbers were, respectively, 15,005 and 4,311—an over-all increase of about twenty per cent.[94] In October 1939, there were 16,141 regular and 6,932 temporary employees, a total increase of 45.16 per cent in a year and a half.[95] The companies paid their employees 49,456,582 pesos in 1936, and some 55,000,000 pesos in 1937; *Pemex* and *Distribuidora* paid 102,928,938 pesos in 1939, an increase of 108.12 per cent over 1936 and of twenty per cent over and above that stipulated by the award of December 1937.[96]

Although the workers in the lower brackets did not materially improve their status,[97] the expropriation was a windfall to those in some circles of the personnel of *Petróleos Mexicanos.* Nepotism was rampant. The advantaged intermediate officials recruited their relatives, their friends, and friends of their friends.[98] Administrative expenses mounted from 2,-

[93] Silva Herzog, *Petróleo Mexicano,* pp. 228 *et seq.,* 236 *et seq.*

[94] *Ibid.,* p. 242.

[95] *Ibid.*

[96] Experts' Report, October 31, 1940, secs. 39 and 40; Silva Herzog, *Petróleo Mexicano,* p. 292. Expenditures for wages and salaries as well as other benefits amounted to 97,464,000 pesos in 1940 and were reduced to 89,342,000 pesos in 1941.

[97] Silva Herzog, *Petróleo Mexicano,* p. 229.

[98] *Ibid.,* pp. 241-42.

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745,939 pesos in 1938 to 6,774,486 in 1939, an increase of 146.71 per cent, and salaries from 1,719,836 pesos to 4,505,578, an increase of 161.98 per cent.[99]

Early in 1940 the management and the government complained bitterly. A memorandum by the general manager, Cortés Herrera, read to a meeting of the petroleum workers' union, set forth many grounds of criticism.[100] These included a decline in efficiency and responsibility, the incessant local hiring of new men, refusal to send in itemized wage sheets and payroll lists, theft, and higher operating costs. The manager appealed for coöperation in saving the industry. His pungent statement presaged a fight for control between the management and workers.

President Cárdenas himself deemed it necessary to intervene. In conference on February 26, 1940 with representatives of each of the thirty-two sections of the oil workers' union, he rebuked the groups for an attitude which, he said, "seems to be similar to the struggle formerly maintained against the companies."[101] The failure of some labor leaders to comprehend that the petroleum industry belonged to the nation, he added, "has produced serious difficulties, endless demands, and a constant increase in expenditures and unproductive charges which weigh down the industry."[102] An early reduction of the working force to the level of March 18, 1939 was demanded.

The workers countered by charging that the management (in which indeed their leaders participated) was disorganized and unenterprising. In a reply to the President's program, the union leaders demanded a centralized administrative

[99] Experts' Report, October 31, 1940, sec. 44; Silva Herzog, *Petróleo Mexicano*, p. 293. It should be added, however, that the *Bulletin of the Imperial Institute*, vol. 38, 1940, pp. 244-47, stated that the cost of producing a barrel of oil in Mexico was 1.32 pesos before March 1938, had risen to 1.60 pesos a year later, but had fallen to 1.35 pesos before the end of 1939.

[100] The statement appeared in *El Mundo* of January 4, 1940; it was summarized in *The New York Times* of January 6, 1940.

[101] Silva Herzog, *Petróleo Mexicano*, p. 246.

[102] *Ibid.*, p. 248.

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agency for the national oil industry, allocation of the majority seats to the oil workers' union, ministerial-governmental aloofness from the oil administration, and active participation on the part of the union in any reorganization.[103] Later complaints were lodged against the distributing agency.[104]

Pressure for governmental reorganization continued through the spring and summer. On May 25, 1940, the President restated the fourteen points of his program under four summary headings: first, a reduction in personnel, wages and welfare benefits; second, the establishment of a fund for indemnification from the proceeds of sales; third, the payment of taxes due to the state; and fourth, the establishment of a government share in the revenue of the oil industries, in recognition of the nation's constitutional ownership of the subsoil petroleum.[105] Under pressure the workers yielded reluctantly to the presidential demands, leaving the most controversial points in abeyance. In order to give effect to the President's plan, the management asked the Federal Board of Conciliation and Arbitration to authorize the provisional application of the order in accordance with article 581 of the labor code. In addition, seeking more definite action, the management deemed

[103] *Ibid.*, p. 260.

[104] Its head was Professor Jesús Silva Herzog, a well-known economist, who had served as expert in the first conflict of economic order in the petroleum industry. He was appointed general manager of *Distribuidora de Petróleos Mexicanos* on May 11, 1939. When he resigned on August 16, 1940, he was quoted as saying that he was not accustomed to dealing with "ruffians". The sort of sales transaction to which the union leaders gave currency is illustrated in the account of the complicated deal set forth in detail in *World Petroleum*, September 1940, p. 33.

The low prices for Mexico's oil—sometimes 55 per cent below the market price—were adversely commented upon by the experts in the second conflict of economic order. A fresh attack against an alleged ruinous selling policy followed by the senior officials of the company was launched by Deputy Braulio Meraz Nevárez in the Chamber on September 9, 1941. In a letter to the editor of *El Universal* (September 30, 1941) Señor Efraín Buenrostro, the general manager, denied any irregularities and invited a full investigation by the Chamber's committee, which absolved the management of wilful wrong.

[105] *The Journal of Commerce and Commercial*, August 27, 1940, p. 40; Silva Herzog, *Petróleo Mexicano*, pp. 261 *et seq.*

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it necessary to institute a new "conflict of economic order".[106] Meanwhile the act of August 9, 1940 consolidated the oil administration in the manner already described. The presidential economy measures, including the dropping of several thousand employees, improved the position of the *Petróleos Mexicanos* in several respects.[107] It was able to pay the gasoline consumption tax pledged for the servicing of the federal road bonds. It was able to clear itself of debts of more than two million pesos for freight charges and materials and to put three million pesos into the improvement of its refineries.

On October 31, 1940 the three experts appointed by the government reported to the Conciliation and Arbitration Board for its guidance in resolving the "conflict of economic order".[108] The experts concluded that readjustments even more drastic than those proposed by President Cárdenas were urgent if the industry was to be saved from breakdown. The salient findings and recommendations have been referred to, or will be mentioned, at various points in these pages.

The Federal Board of Conciliation and Arbitration rendered its decision on November 28, 1940. While the terms of the award in some points were as severe as those called for by the President, in others fewer sacrifices were demanded from the workers. Chiefly the economy sought was through a cut in salaries and the reduction of personnel. Salaries for employees receiving seven hundred pesos and upward a month were reduced ten per cent; the number of personnel was to be reduced to the level of March 18, 1939, with the exception of certain professional men, such as physicians and lawyers, who were cut in number only twenty-five per cent; part-time workers were to be dismissed after their temporary job had

[106] For "conflicts of economic order", the labor code (*Diario Oficial*, August 28, 1931, articles 570-83) authorizes recourse to an investigation by experts when changed economic conditions—such as a serious depression—are alleged to make fulfillment of labor contracts impossible.

[107] Report of the general manager, Efráin Buenrostro, March 18, 1941, in *International Petroleum Trade*, vol. 10, No. 6, June 30, 1941.

[108] Silva Herzog, *Petróleo Mexicano*, pp. 285 *et seq.* The report is paraphrased in part in *World Petroleum*, May 1941, pp. 27-31.

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been completed; the management had full liberty in deciding whether or not it wanted to fill vacancies; traveling expenses for union workers were to be cut, and weekly working hours to be fixed at forty-four. But in other respects suspensions and reductions were lifted.[109] *Petróleos Mexicanos* forthwith had to pay savings fund benefits to the amount of 11,500,000 pesos, renew the payment of house rent, and grant vacations of twenty-one days to employees in service less than ten years, and of thirty days for those more than ten years.[110] These measures had only a temporary character as they were designed to tide the industry over the crisis. The Board enjoined the management to use the savings which its ruling permitted for the improvement of equipment, in accordance with the recommendations of the experts. At any rate, the award settles *Petróleos Mexicanos* with about ninety million pesos as fixed charges for wages and benefits.[111]

The economies have not been accomplished without friction. One union section (centered in Tampico and Cuidad Madero and composed mainly of former Mexican Eagle employees) is said to have urged a strike and to have threatened withdrawal from the union in protest at its submission to dismissals.[112] In the face of such stirrings, the management in 1941 became less conciliatory than before, despite labor's taunt that Efraín Buenrostro, the new manager, was one of the experts who, prior to expropriation, reported on the ability of the companies to increase wages and related payments.[113] On one occasion troops were stationed at the Mata Redonda terminal

[109] Silva Herzog, *Petróleo Mexicano*, pp. 294 *et seq.*

[110] Report of the general manager, March 18, 1941, in *International Petroleum Trade*, vol. 10, No. 6, June 30, 1941, p. 149.

[111] Silva Herzog, *Petróleo Mexicano*, p. 304.

[112] "Mexico Wrestling with Acute Financial Problem of Oil", *World Petroleum*, May 1941, p. 26. Union virtually attacked union when the railroad employees complained that inferior fuel oil was handicapping the railroads. *El Popular*, March 29, 1941.

[113] "Mexican Oil Industry Nearing Critical Situation", *World Petroleum*, November 1941, p. 28.

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at Tampico.[114] The government has let it be understood that it would not permit a shutdown of the industry for a single day.[115] Mexican labor leadership at present is not intransigent; with the administration as a whole it has moved toward the center. The grumbling of the oil workers takes such forms as advertisements in the daily press. On September 18, 1941, for example, the press carried a declaration on the preceding day by the executive committee of the petroleum workers, apparently joined in by the Confederation of Mexican Workers and its constituent unions.[116] The gravamen was directed against the following alleged practices: the continual and permanent displacing of employees without respect for seniority;[117] meddling with the internal concerns of the union; the illegally large number of "employees of confidence" (who may be appointed by the management regardless of the union);[118] no over-time rates; and wage reductions made ostensibly to bring wages in line with the price level.

A fundamental grievance has been the failure to conclude a new and comprehensive collective labor agreement. Instead, the industry has proceeded under an incomplete fabric of mostly local labor agreements derived from those in force

[114] *El Universal*, April 6, 1941.

[115] Doubt exists whether employees of such decentralized public agencies as *Pemex* are fully exempt from the juridical statute for the civil service. *El Popular*, February 24, 1941. Even as revised in early 1941 (*Diario Oficial*, April 17, 1941) the civil service statute leaves a qualified right to strike. This right of labor generally was regulated almost at the same time by an amendment to the 1931 law (*Diario Oficial*, April 10, 1941). *Cf. Monthly Labor Review*, June 1941, pp. 1460-61; *International Labour Review*, July 1941, pp. 67-68; Alberto T. Urbina, *Ley Federal del Trabajo Reformada* (Mexico City, 1941).

[116] *El Universal*, September 18, 1941.

[117] *The Oil and Gas Journal*, December 4, 1941, p. 24, reported that five thousand additional employees had been discharged by *Petróleos Mexicanos*.

[118] The concept of "confidential employees" is fundamental in Mexico both in civil service and in union relationships to management. The declaration of September 17 charged not only that one thousand workers had been designated as "confidential"—a number said to be far above the limit allowed—but also that the whole legal department had been so classified, down through office boys and porters. "Confidential employees" are not covered by the union agreement.

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before expropriation. Negotiations looking toward a new agreement took place long ago. A draft was at least partially ready early in 1940. It contemplated the division of the employees into four categories and many sub-categories under terms that severely limited the unrestricted appointive power of the management. When the management presented the issue of a conflict of economic order to the Labor Board, it asked for the imposition of a collective labor agreement. The Board, however, declined to grant the plea on the ground that article 43 of the labor code obligated employers to enter into such a contract, but only upon petition of the workers. Such a petition not having been presented in this case—in fact, the evidence showed that the workers refused to enter into the submitted contract in the circumstances—the Board declared itself incompetent to act upon the plea.

The situation changed when the economy measures sanctioned were put into operation. At the beginning of 1941 not all of the restrictions were enforced,[119] but gradually the management tightened up on labor. Now it was the union that was anxious to conclude a collective agreement with the management, but the management resisted. Union leaders charge managerial bad faith in protracting the discussion and delaying the consummation of an agreement. On March 10, 1942 a portion of the petroleum workers engaged in a short token strike to emphasize their demand for a collective agreement. About this time it was said that the President of the Republic gave the management a dead line for the conclusion of an accord.

The balance sheet of oil nationalization from the standpoint of its effect on labor is not easily struck. There is irony when apologists for the dispossessed companies say that with private operation the workers enjoy the advantage of having the government on their side. The union was probably slow in reorienting itself to the conditions of public ownership. The sense of responsibility does not seem to have been sufficiently

[119] Silva Herzog, *Petróleo Mexicano*, p. 304.

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widespread.[120] The nationalization of an industry can hardly be expected to yield quick magic for the segment of workers engaged therein; the calculus of socialization is broader. In any case, the net effect of the Mexican oil expropriation on the workers, and their capacity for collaboration with public management, can hardly be judged without further experience under more normal marketing conditions.

Financial Results

The Mexican government took over an existing industry but not one that was unified; nor was it taken over as a going concern, for its ordinary customers were not acquired with it. The state of the physical plant is a matter of dispute; Mexicans disparage the condition of the equipment at the time of expropriation and attribute thereto much of the present crying need for capital outlay, including the hoped-for purchase of equipment in the United States. Expropriation brought shifts of personnel at the top although the new public enterprise was helped by the tendency of foreign companies to entrust Mexican technicians and executives with responsibility often out of proportion to their status and salaries. But the suddenness of the transition sorely wrenched the organization of the industry in all its parts. It is probably true that the companies expected disaster and chaos soon to bring the government to its knees.

Viewed against such anticipations as a background, public management was relatively successful from the start. Its defenders justified it in terms larger and less immediate than those of a balance sheet. "The expropriation", said President Cárdenas in his message to Congress on September 1, 1939, "is bound up in the history of economic independence and it must not be touched. Its motive for being is clearly rooted in

[120] Jesús Silva Herzog, himself an economist of the Left, upon whose account of the labor troubles of *Pemex* heavy reliance has been put in the preceding paragraphs and who is as strong as ever in his support of expropriation, gives the following prescription for the rehabilitation of the oil industry in Mexico: authority and competence, authority and honesty, authority and discipline, and justice and understanding for the legitimate aspirations of the workers. *Petróleo Mexicano*, p. 305.

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the heart of the people, who consider it as a legitimate recovery of the Nation's rights to the subsoil."[121] But it is timely to ask generally about financial results.

Since *Petróleos Mexicanos* has not published balance sheets or profit and loss statements, no exact data can be given on its assets, liabilities, earnings and expenditures. The main sources of information are the general manager's report of March 18, 1941[122] and the findings on October 31, 1940 of the committee of experts on the second "conflict of an economic order",[123] together with stray statements by Mexican officials and estimates by qualified oil men. The fragmentary data thus afforded do not give a well-rounded picture. But they are revealing enough to give some measure of the losses to the Mexican government since expropriation. It has been seen that the weight of these losses necessitated a reorganization of the oil industry in 1940 and that *Petróleos Mexicanos* had to be financially and legally revamped as of January 1, 1941.

Up to December 31, 1940, according to the general manager's report, Mexico had a patrimony of 300,000,000 pesos in *Petróleos Mexicanos*. This fact must serve as the hub of the analysis. In 1938 *Petróleos Mexicanos* and *Distribui-*

[121] Quoted from Donald R. Richberg, *The Mexican Oil Seizure* (New York, 1939), p. 18.

[122] *International Petroleum Trade*, vol. 10, No. 6, June 30, 1941.

[123] The report was drawn up by the economist Enrique Sarro, head of the economic department of the Bank of Mexico, Miguel Manterola, a certified public accountant, and José López Portillo y Weber, a petroleum engineer. It has not been published, but is reprinted as cited and in the newspapers. It is also in part reproduced in "Critics Cite Decay of Mexican Industry", *World Petroleum*, May 1941, p. 31.

In interpreting this report, it should be borne in mind that it was the government's policy at the end of 1940 to use this report as a curb on labor, and further, that before expropriation, earnings were reported as low as possible by the companies and were raised as high as possible by the government for taxation purposes. Thus as investigator for the Treasury, Miguel Manterola, in *La Industria del Petróleo en México* (Mexico City, 1938), stated that the companies reported profits of 20,532,632 pesos for 1934, 27,658,940 for 1935, and 20,476,829 for 1936, whereas, according to his findings, the true profits were 51,479,780, 61,968,020, and 55,576,343, respectively, or 12.93 per cent, 17.58 per cent, and 11.58 per cent on the capital invested.

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dora de Petróleos Mexicanos showed a profit of 15,410,679 pesos. This favorable showing was reversed in the following two years. In 1939 the two companies showed a loss of 21,574,279 pesos, although their income of 234,098,180 was only 8.64 per cent lower than that of the companies in 1936. But with an adjusted income of 256,234,501 in 1936, the companies had been able to show a profit of 53,235,265 pesos. The combined profit and loss statement of the three government agencies, *Petróleos Mexicanos, Distribuidora,* and *Administración General del Petróleo Nacional,* for the first six months in 1940, showed an income of 143,453,086 and expenses of 211,357,630, and therefore a loss of 67,904,544 pesos.[124] It must be understood, here as throughout the discussion of the financial position of *Petróleos Mexicanos,* that these statements are necessarily based in part on provisional, incomplete, or unauthoritative figures and that the picture of the nationalized oil industry may be prejudiced thereby.[125] Certainly the situation called for governmental support for such purposes as the replenishment of equipment.

Cash advances were tendered, and a tax debt of about 60,000,000 pesos was wiped out by congressional appropriation in the form of a reimbursement for "capital investments" on the part of *Petróleos Mexicanos.*[126] On the other hand, *Petróleos Mexicanos* has claims against the government, such as the claim arising from unpaid shipments to Germany, the government being the principal in the transaction between the two states. Taking all payments and counterclaims into consideration, it appears that in the first three years of its oil venture the government went without almost the sum it would have received as taxes[127] from the private companies during

[124] Silva Herzog, *Petróleo Mexicano,* p. 268.

[125] The assistant general manager of *Petróleos Mexicanos,* Señor Manuel Sánchez Cuen, informs the authors that he will shortly publish an article setting forth the exact financial story.

[126] Buenrostro report in *International Petroleum Trade,* vol. 10, No. 6, June 30, 1941, p. 149.

[127] In 1935, 1936 and 1937 the Mexican government obtained a steady 14¼ per cent of its federal revenue from taxes on the oil industry, which amounted

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the period under discussion if they had been permitted to continue operation.

The financial situation of *Petróleos Mexicanos* was so precarious that the government temporarily suspended the collection of taxes. In 1940 an overdue change was made in the twelve per cent federal tax on exports.[128] The new organic law for *Petróleos Mexicanos*, approved December 31, 1940, implemented the reduction of the oil production tax; under the new terms, for instance, light crude was taxed 9.75 cents (U. S.) per barrel as compared with 21.25 previously. Although in principle *Petróleos Mexicanos* is subject to all taxes, in practice it occupies a partially privileged position for it is exempt from taxes on income, inheritance, legacies and gifts. Nor need it pay stamp taxes on invoices, such being rechargeable to the other contracting party.[129]

According to the general manager's report for 1941, broadcast on March 22, 1942,[130] *Petróleos Mexicanos* showed striking progress during that year. The total income amounted to 307,560,000 pesos, made up as follows: domestic sales, 222,000,000; export sales, 74,000,000 ($15,300,000); other income, 11,560,000 (of which 6,380,000 was from sales of artificial silk); collection of debts, 4,580,000; and short-term loans, 600,000. The heaviest expense item was for wages, salaries, and other benefits—89,342,000 pesos; layoffs permitted a saving of about 8,000,000 pesos compared with expenses under this heading of 1940. Taxes were paid for the first time in the full amount due, namely, 75,000,000 pesos. Old debts were discharged, as follows: borrowings of 6,000,000 pesos to meet the savings-fund requirements of the personnel; 1,000,000 on accounts payable for merchandise and equipment;

to 65,000,000 pesos in 1937. D. Graham Hutton, "The New-Old Crisis in Mexico", *Foreign Affairs*, July 1938, p. 635. On account of the loss of these taxes, the Mexican government has been forced to revise its tax system. A detailed list of all taxes levied on the oil industry in the years 1934-1936 is given in *Mexico's Oil*, Government of Mexico, p. 245.

[128] *Cf.* also Ley del Impuesto sobre Productos de Petróleo y sus Derivados, *Diario Oficial*, December 1940, p. 9.

[129] *Código Fiscal de la Federación*, Chap. I, Art. 30.

[130] See, for instance, *Excelsior*, March 23, 1942.

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6,500,000 for accumulated freight charges due the National Railways; and 1,300,000 to independent petroleum producers. Investments were made to the extent of 34,800,000 pesos: for plants, 16,000,000; for equipment, 4,500,000;[131] and for ships and tank-cars, 14,500,000. Social welfare payments required an outlay of 3,607,000 pesos. Moreover, *Petróleos Mexicanos* met its fixed interest charges toward the Treasury, about 9,000,000 pesos, and transferred, "on account of the profits due the Federal Government," 1,000,000 pesos. Considering that gross earnings were only 20,000,000 pesos higher in 1941 than in 1940 and savings in wages in the same year amounted to only 8,000,000, the vastly improved financial condition of *Petróleos Mexicanos,* as pictured in the incomplete figures announced, may well excite wonder.

The manager's report especially emphasizes the following achievements: *Petróleos Mexicanos* paid higher taxes than the expropriated companies ever did; it made purchases from local commerce of more than 15,000,000 pesos a year, acquiring in the domestic market articles that previously were imported; the personnel in the employ of the company was considerably larger than that which had lived from this economic source before March 18, 1938; and the returns from the industry, deducting the amounts which are being paid to some of the expropriated companies and indispensable purchases from foreign sources, remained as a whole in the country and were applied to purposes of the collective good.

Capital Needs and New Measures

The nationalization of the oil industry in Mexico, linked financially to agencies of the United States, suggests a pattern of capital supply through governmental and intergovernmental means. With all its costs and despite the risks of undue expectation and soured friendship that it holds,[132] the pattern

[131] For refineries, the investment was 13,190,000; for exploration, 2,264,000 pesos.

[132] For typical warnings, *cf.* Duncan Aikman, *The All-American Front* (New York, 1940), pp. 319, 322; Katherine Rodell, "Buying 'Good Will' in Latin America", *The New Republic,* November 22, 1939, pp. 135-37.

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may well prove to be one of the methods of "peace without empire." [133]

Nevertheless, from the standpoint of opportunities for private financing of Mexico's oil industry, note must be taken of possible implications in a revision, on May 2, 1941, of the law on petroleum resources. The statutory changes were initiated by a presidential message of February 14, 1941, wherein it was said:

> Such modifications are designed to make attractive the leasing of petroleum fields from the nation, placing such leases upon a financial basis more in accordance with the realities of our capital market, with the essentially speculative nature of the enterprise, and with accepted business standards. This, however, without prejudicing the fundamental point of view that the nation, as owner of the oil, is the one who first of all should receive benefits resulting from the exploitation.[134]

The President's statement was echoed a few days later by Miguel Alemán, Minister of the Interior, in terms which alarmed Leftists at the suggestion that foreign capital would be permitted to "participate" in the exploration and exploitation of new oil fields after the expropriation question was settled.[135] Some ambiguity on this point, as will be seen, attended the legislative action on the proposal. But the minister's remarks indicated that private financing would be confined to new oil fields and that foreign capital placed therein must work purely through Mexican companies.

[133] The phrase is that of an assistant secretary of state, Adolf A. Berle, Jr., "Peace Without Empire", *Survey Graphic*, March 1941, section III, where, illustratively, it was said of a proposed inter-American bank: "It should be the beginning of a system in which finance is the servant of exchange and development and is adjusted to that commerce and that building which serves the various countries—in direct contrast to the older system, which insisted that the development and the commerce must serve finance, or it could not go forward."

[134] *The New York Times*, February 15, 1941.

[135] Leftist anxieties were illustrated by Tiana López in an article in *El Popular*, April 22, 1941. *Cf.* also *Pasos de Cangrejo en la Cuestión Petrolera* (Mexico City, 1942), by former Finance Minister Narciso Bassols.

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The new law, promulgated on June 18, 1941, modifies the application of article 27 of the constitution to petroleum.[136] The oil industry is grouped in two divisions: exploration and exploitation, proper; and accessory operations. Exploration and exploitation may be carried on by a government department, or more flexibly by an *institución publica petrolera*, like *Petróleos Mexicanos*, or by letting out contracts. If the last method is used, contracts are limited to thirty years, either on a fixed-compensation basis or in consideration of a share of the output. Such contracts may be with individual Mexicans, or with Mexican companies having exclusively Mexican stockholders, or with mixed companies in which the government holds a majority of the shares.[137] It is stipulated that shares may not be made out to bearer.

Regarding foreign participation, a word should be added about the ambiguity already mentioned. The original draft of the proposed law, distributed to the members of the Chamber of Deputies, stated that contracts could be entered into between the government and mixed companies in which the government would hold the majority of the stock "and in which also foreigners may be shareholders." It remains somewhat mysterious how this interpolation crept into the draft bill.[138] Feelings became tense; the Left became vociferous. Señor Gaxiola, Minister of National Economy, found it necessary to declare that "any fears aroused" were absolutely without foundation.[139] The perplexing phrase was stricken from a new copy submitted to the deputies.

While the revised bill was pending, an attempt was made to amend the section in question by adding to the provision about

[136] *Diario Oficial*, June 18, 1941. A government spokesman has emphasized that the amendments refer only to new concessions and do not affect the expropriation case.

[137] For a brief comparative account of the rôle of mixed companies in petroleum, *cf.* P. Reuter, "Les participations financières des collectivités publiques dans les sociétés pétrolifères", *II^me Congrès Mondial du Pétrole* (Paris, 1937), pp. 519-23.

[138] *El Popular*, March 14 and April 22, 1941.

[139] *Ibid.*

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mixed companies the words "in which foreigners may not have any interests either directly or indirectly." Señor Peña Palafox, for the committee in charge of the bill on the petroleum law, declared the suggested proviso to be unimportant because the text as it stood was clear. Upon his motion the amendment was defeated, and the Chamber then unanimously passed without change President Avila Camacho's proposed modification of the petroleum law,[140] which the Senate likewise approved.[141]

In his message to President Roosevelt on the occasion of the publication, on April 18, 1942, of the joint report of the American and Mexican appraisers, President Avila Camacho characterized the agreement as "a confirmation of the attitude of my government in its desire to grant ample guarantees to the participation of private capital, national and foreign, in the exploitation and development of the material resources of this republic."

The sum agreed upon by the experts as the values of American-owned properties was $23,995,991. Of this amount the Standard Oil Company of New Jersey group would obtain $18,391,641, the Mexican subsidiaries of the Standard Oil Company of California $3,589,159, and three other groups the balance—about three times as much as the court decision of August 20, 1940 allowed. The experts' agreement provided further that "the Government of the United Mexican States shall pay to the Government of the United States, on behalf of the above-mentioned claimants, the amount of $23,995,991,

[140] *El Universal*, March 22, 1941.

[141] Concessions for petroleum transportation, storage, distribution, refining and gas supply, as well as artificial gas production, may be granted for a period of fifty years. Concessionnaires of this sort must qualify in the same manner as those for exploration and exploitation as to nationality and status as minority stockholders. After the termination of the contract, the plants, installations, etc., of the concessionnaires pass to the federal government. Meanwhile such facilities are to be at the disposal of the government up to twenty per cent of their capacity. The holder of a concession must carry out his contract in orderly fashion; otherwise it may be rescinded on the ground of misfeasance or malfeasance.

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in accordance with schedule of payments finally approved by the two governments."

It is evident from the compromise figure that the United States government accepts the Mexican thesis concerning subsoil rights. On the other hand, the Mexican government, which filed many claims against the American companies subsequent to expropriation, agrees to relinquish its claims, with the exception of those for unpaid taxes and duties, but private claims against the companies made previous to the agreement of April 18 survive and, if found valid by the Mexican courts, are subject to an interest payment of three per cent from the time of expropriation. Although the American companies are not obligated to accept the joint report of the American and Mexican appraisers,[142] President Roosevelt apparently considers "the so-called petroleum question" as settled, as he, in his reply to President Camacho, stated that "Mexico and the United States once again have given a demonstration to the world that the most difficult international problems can be solved when approached with good will and in a spirit of fair play." He added: "I welcome this opportunity to express to you and to the people of Mexico the very deep appreciation of my country for the active and constructive collaboration and assistance of Mexico in the cause of freedom and democracy."[143]

What has been said raises the question of collaborative financing in other fields than oil merely and leads to the promises of intergovernmental action announced on April 7, 1942 on the occasion of the visit to Washington of Dr. Ezequiel Padilla, Mexican Minister for Foreign Affairs. "In the short space of a few days," read the joint statement of Dr. Padilla

[142] On the United States–Mexican award, see U. S. Department of State Press Releases, April 18, 1942, No. 165 and No. 166.

[143] At the end of January 1942, the Standard Oil Company of Bolivia, subsidiary of the Standard Oil Company of New Jersey, sold its properties to the Bolivian government for $1,500,000. In return the Bolivian government released the company from all claims arising out of expropriation and absolved it from the payment of the government's claim for unpaid taxes. The properties, it is said, were originally valued at $17,000,000. *The Oil and Gas Journal*, February 1942, p. 28; Willy Feuerlein and Elizabeth Hannan, *Dollars in Latin America* (New York, 1940), pp. 74-75.

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and Sumner Welles,[144] "we have agreed upon a number of arrangements that not only will develop the economic life of Mexico and the United States but will greatly speed the war effort of the United States." The statement then alluded to the formal announcement on April 4 of the intention to negotiate a trade agreement with hearings scheduled to begin on May 18.[145] Especially in point were the intimations on industrial development and related matters. "Continuing the program of coöperation in the development of industries in Mexico undertaken last fall," it was said, "we have agreed that our two Governments shall coöperate in the establishment in Mexico of a series of basic industries to meet Mexican consumption needs and to supply goods required by the war effort of the United States." The method of development was to be found in coöperation between private investors and the Mexican government. The statement promised that the Export-Import Bank would give careful consideration to the possibility of providing through *Nacional Financiera,* a governmental credit institution, "credits for the acquisition in individual cases in the United States of materials and equipment that cannot be provided in Mexico"—the obligations bearing the guarantee of the Mexican government. It was indicated that a steel and tin plate rolling mill were among several important specific projects under consideration. The criteria of priority ratings for machinery and the like were to be the degree "to which each specific project contributes to the war effort and the security of the hemisphere." Arrangements had been made, it was added, for the Mexican Undersecretary of Fi-

[144] U. S. Department of State Press Releases, April 7, 1942, No. 148. Regarding the settlement of general claims, on April 2, Dr. Padilla had delivered Mexico's ratification and a check for $3,000,000 pursuant to the arrangement signed November 19, 1941. The President of the United States proclaimed the convention on April 9. *Cf.* Press Releases No. 133 and No. 154.

[145] *Cf.* Department of State Press Releases, April 4, 1942, No. 137, containing a statement on trade-agreement negotiations with Mexico, the public notices of the Department of State and the Committee for Reciprocity Information, and the list of products on which the United States will consider granting concessions to Mexico. *Cf.* also Press Releases, April 11, 1942, No. 156, which gave a supplementary list of products.

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nance, Ramón Beteta, to remain in the United States at the head of a contact office on problems of priorities and allocations. Meanwhile, in recognition of the importance of the Mexican railways in "moving strategic war materials being produced in ever-increasing quantities in Mexico", experts from the two countries were examining Mexican rolling stock needs for consideration in planning future production of such equipment in the United States. Likewise, experts were determining what construction of small cargo vessels was feasible in Mexico. Finally—and this bore immediately on the oil industry—the joint statement of April 7 declared that "in view of the desirability of establishing a high octane gasoline plant in Mexico, we have agreed that a plant should be constructed as soon as the necessary equipment can be spared."

For the oil industry as a whole, what lies beyond the settlement of the expropriation indemnification is not clear; especially problematical are the alternatives for developing the new oil fields. In the meantime Mexico's nationalized industry must have equipment. It must obtain this from the United States. The immediate adjustments with Mexico, like strategies in the hemisphere at large, rest on political and military considerations. They are not thereby less economic, for without well-being and self-respect it is idle to expect calm and coöperation among awakening peoples.

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EXPORT AND IMPORT ASSOCIATIONS AS INSTRUMENTS OF NATIONAL POLICY

THE transformation of our commercial policy after September 1939 from an instrument of international peace to a weapon of economic warfare came to a climax on December 8, 1941, with the declaration of war on Japan. For the duration of the war, we have a new foreign trade policy, the aim of which is not to spread peace and prosperity throughout the world, but simply to help our armed forces win the struggle against the Axis Powers. This reorientation of policy involves the adoption of new administrative machinery. We already have a Board of Economic Warfare which will be responsible for the grand strategy of our fight on the economic front. We shall need, in addition, many new administrative devices to put into effect new policies. Some of these are already in operation, such as the Division of Export Control and the various governmental corporations engaged in purchasing raw materials for the defense program.

Meanwhile, private traders are wondering what their function will be in the new trade program. For an answer, they naturally turn to the experience of the United States, and that of other countries, in the first World War. In that experience it appears that export and import associations were employed as instruments of foreign trade policy. In this war, exporters' associations in Great Britain (and in other countries before the outbreak of war) have been entrusted with rather large responsibilities in the implementation of foreign trade policy. What relevance has this experience for the administrative problems with which we are now faced? Is it possible that import and export associations will again become instruments of national policy? What other changes may take place in the position of firms engaged in foreign trade during war time? Will these changes prove only temporary, or may we expect them

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to carry over into the post-war period? In an endeavor to answer these questions, we shall review the rôle of private traders in this country and in Great Britain during periods of war-time trade controls, as well as that of private traders operating in other countries under various peace-time restrictions.

Trade Associations and Import Control—World War I

By February 1918 the movement of all goods into and out of the United States had been prohibited, except under licenses issued by the War Trade Board. Certain imports, however, received special treatment. The United States depended on British Empire countries for supplies of certain strategic materials such as rubber, tin and wool. The British government was extremely anxious that none of these materials should fall eventually into neutral or enemy hands. It, therefore, insisted at first that American importers of such articles apply individually for export licenses, furnishing guarantees that the goods would not be re-exported or sold again except under conditions specified by the British or colonial governments. Permission sometimes had to be obtained, and details of the transaction furnished to the British government, even before goods so imported could be resold to purchasers in the United States.[1]

This procedure proved so cumbersome that trade associations in the United States undertook to enter directly into negotiations with the British government. As early as February 1915, for example, the Textile Alliance made an agreement with the British government dealing with the importation of wool. All requests for import licenses were made through the Alliance, which transmitted them to the British Embassy in Washington. If approved, they were then relayed to London for confirmation by the British War Trade Department. Shipments were consigned to the Textile Alliance, which required from individual importers their assurance that the wool would not be re-exported.[2]

[1] *Report of the War Trade Board* (Washington, 1920), pp. 75-76.

[2] *Ibid.*, pp. 77-79. Associations in Norway and Sweden acted in a similar capacity for the importation of restricted commodities from the Allied countries. See also *infra*, n. 61.

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In this way, even before the United States had begun to exercise control over foreign trade, the British government, by dealing with responsible trade organizations, was able to facilitate the export to this country of many strategic materials. By May 1917 the following agreements had been made to limit the re-export of imports:[3] the Textile Alliance agreement, covering wool and animal hair, jute and its products, with 929 firms adhering; the rubber guaranty with nearly 600 firms adhering; the tin guaranty with more than 200 firms adhering; the leather guaranty with more than 600 firms adhering; the antimony guaranty with about 80 firms adhering; the tinning material guaranty; the mica guaranty; the metal guaranty, covering chromium ore, cobalt, spiegal, magnesium, wolfram, molybdenum, "scheelite", nickel, metal and ferro-alloys coming from these minerals.

When the War Trade Board was formed, it undertook to relieve the British government of the task of controlling imports into the United States, but it continued to use trade associations, several of which were formed at its instigation, as its administrative agents. The trade associations agreed to furnish to the Board such information about their members as the former might request, to act as consignees for the commodities for which they were responsible, and to release these commodities to individual importers under arrangements agreed upon with the Board. Following is a list of the associations and the commodities for which they were responsible:[4]

* American Diamond Committee, Inc.: All kinds of diamonds and diamond tools

American Iron and Steel Institute: Tin, chloride of tin, tin ore

* Plumbago-Graphite Association: Plumbago

Rubber Association of America, Inc.: Rubber, raw or reclaimed waste or scrap, balata, gutta-joolatong, gutta-percha, gutta-siak

* Tanners' Council of U. S. A.: Leather, hides and skins, tanning materials

[3] *Ibid.*, p. 79.

[4] *Ibid.*, pp. 81, 396.

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Textile Alliance, Inc.: Wool and animal hair, wooled and haired skins, jute and burlap, including bags, cotton, flax and linen, mica, palm oil and palm

* The U. S. Shellac Importers' Association, Inc.: Shellac

* Formed at the instigation of the War Trade Board.

The work of these associations was confined to facilitating imports of strategic materials, the supply of which was vital to the United States war effort. No attempt was made by the associations to distribute commodities to individual consuming firms under quotas. The associations merely acted as coördinators and consignees of imports, the total amount of which was determined by the demand of individual importers, subject to the export policy of the United Kingdom and the British Empire countries.

American Importers' Associations [5]

Operating within the framework of the anti-trust laws and other legislation which aims to prohibit restraints of trade,[6] a number of importers' associations are now in existence which might, should need arise, act as intermediaries between individual importers and the government. In addition to the National Council of American Importers, about fifty trade groups cover nearly all the important imports into the United States and all of the important strategic materials on the Army and Navy Munitions Board list.

Associations of importers endeavor to get favorable governmental treatment for particular commodities. In addition,

[5] The author is much indebted to Mr. Ralph R. Kaul whose unpublished manuscript on business combination and American foreign trade contains valuable information on this subject.

[6] The Wilson Tariff Act, as amended, specifically provides that every combination or agreement affecting import trade is illegal when it is "intended to operate in restraint of lawful trade, or free competition in lawful trade or commerce, or to increase the market price in any part of the United States of any article or articles imported or intended to be imported into the United States." Section 337 of the Tariff Act of 1930, and the antidumping laws (Tariff Act of 1894, sec. 73; Revenue Act of 1916, secs. 800-801; the Federal Trade Commission Act of 1914; and the Antidumping Act of 1921) all regulate competition among American importers.

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they engage in market research and other activities designed to improve the buying position of the individual importer. By establishing uniform standards of quality, credit allowances, discounts, etc., they have standardized the conditions of competition without eliminating it. No case is on record in which American importers, acting through their associations, have succeeded in establishing an import buying monopoly [7] or even in maintaining minimum buying prices for individual members in their foreign purchases.

An unsuccessful attempt was made in 1927, in the Newton Bill, to get legislation which would allow American importers to combine and to regulate foreign buying. Combinations of certain products were to be permitted, provided they did not substantially lessen competition in the domestic market. The proposed legislation was inspired by the Stevenson Plan of 1925, under which the British government curtailed production and restricted crude rubber exports. The United States being the world's principal consumer of crude rubber, the burden of the increased prices fell most heavily on our buyers. As a measure of self-protection, American rubber importers and manufacturers in December 1926 organized a pool, known as the American Reserve for Crude Rubber, "to insure an adequate supply and stabilize the price." [8] But the increase in world rubber prices stimulated the output of crude rubber in the Dutch East Indies and in other areas outside British control; prices fell drastically, and the Stevenson Plan, together with the American import pool, was abandoned. With the need for concerted rubber buying thus eliminated, the proposed legislation was defeated in the House and never voted upon in

[7] American importers of sisal, potash, cinchona bark and quinine derivatives, and sardines were forbidden to continue agreements with foreign exporters which tended to create or created a monopoly condition in the United States: *U. S.* v. *Sisal Sales Corporation et al.* (274 U. S. 268); *U. S.* v. *Deutsches Kalisyndikat Gesellschaft et al.* (31 F. [2d] 199); *U. S.* v. *N. U. Amsterdamsche Chinenefabrick et al.* (DC NY 1928); *U. S.* v. *A.B.C. Canning Co. A/S et al.* (DC NY 1931). Texts of the two last named decisions may be found in the five-volume Court Decision Supplement, Commerce Clearing House Trade Regulation Service.

[8] *Rubber Age*, June 10, 1928, p. 252.

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the Senate. No subsequent attempts have been made in Congress to pass such legislation.

In the present emergency such organizations as were used in 1917 and 1918 to facilitate imports of strategic articles from British Empire countries might be used to work with the government in the allocation and regulation of imports, particularly strategic materials. It appears, however, that government monopolies are being more widely used. In the post-war period, should control be continued, import associations might be used to regulate flow of imports from all countries.[9]

American Exporters' Associations: Webb-Law Associations

Exporters have occupied a more favored position than importers so far as anti-trust policy is concerned; the Webb-Pomerene Act of 1918 permits them to combine for the purpose of carrying on export trade, subject to certain restrictions. This legislation resulted from an extensive investigation by the Federal Trade Commission of trade policies and business practices abroad as they affected the foreign trade of this country. The Commission's report[10] recommended that the provisions of the various anti-trust laws be relaxed in order to permit combination among American exporters.

The Commission pointed in its report to the existence of national and international cartels and combinations in Europe, whose power had been felt at first hand by American exporters and importers:

> In seeking business abroad American manufacturers and producers must meet aggressive competition from powerful foreign combinations, often international in character. In Germany, Italy, Switzerland, Holland, Sweden, Belgium, Japan, and certain other countries where policies concerning industrial combinations are quite diverse from that of the United States, businessmen are much freer to cooperate and combine than in

[9] See pp. 206 *et seq.* for use of importer associations under quotas in other countries.

[10] Federal Trade Commission, *Cooperation in American Export Trade* (2 vols., 1916; now out of print).

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this country. They have developed numerous comprehensive combinations, sometimes aided by their Governments, which effectually unite their activities both in domestic and foreign trade. In England and Austria-Hungary, though freedom to combine is considerably abridged under the law, important combinations have also been formed. . . .

If Americans are to enter the markets of the world on more nearly equal terms with their organized competitors and their organized customers, and if small American producers and manufacturers are to engage in export trade on profitable terms, they must be free to unite their efforts.[11]

American foreign traders also were apprehensive of the power of post-war reconstruction buying concentrated in the hands of various European governments and unofficial, but non-competing, buying agencies.[12] The British Ministry of Reconstruction was proposing to import raw materials and to allocate them among British manufacturing plants according to the recommendations of trade associations. Similar action was contemplated by the French government in connection with the reconstruction of the devastated textile industries in northern France.

United States exporters, however, were aware that on purely economic grounds their position after the war would be stronger than that of their European competitors. They realized that the United States would occupy a unique place in post-war years as the major source of agricultural and electrical machinery and equipment, mining machinery, iron and metals and textile machinery, as well as of foodstuffs and various consumers' goods.[13] Once established in European markets, combination under the Webb-Pomerene Act, it was hoped, would hold these markets for American suppliers.

[11] *Ibid.*, I, 4-7, cited in *Export Prices and Export Cartels (Webb-Pomerene Associations)*, Monograph No. 6, Temporary National Economic Committee (Washington, 1941), pp. 115-116.

[12] See address by Gilbert H. Montague before the Fifth National Foreign Trade Convention, April 18, 1918, reported in *Official Proceedings* of the Convention, p. 311.

[13] See *ibid.*, especially pp. 281-344.

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> In the earliest stages of rehabilitation after the war, business in large measure will necessarily have to yield to philanthropy. But when all needs superior to business are supplied, and when reconstruction in Europe has assumed its place alongside our own just claims upon the legitimate avails of American commercial achievement, every resource which the Webb-Pomerene law can then suggest will have to be drawn upon in order to safeguard American labor, American capital and American enterprise in the markets of the world.[14]

Moreover, American foreign traders wanted a clarification of the legal position of combinations in foreign trade. Specifically forbidden within the territorial jurisdiction of the United States, unfair competition in restraint of trade outside that jurisdiction, the courts had judged, could not be prohibited.[15] The Douglas Fir Exploitation and Export Company, practically the only example of a foreign trade combination, prior to the Webb Act, was deterred from active business for almost three years because of the uncertainty of its position under the anti-trust laws.

Furthermore, it was hoped that, when organized under the Webb-Pomerene Act, war-baby industries such as the chemical and dyestuff industries would be better able to meet foreign competition. Finally, foreign traders felt that the Webb-Pomerene associations would help in disposing of commodities produced in excess of consumption during the war years, principally foodstuffs such as wheat and flour.[16] Most of these advantages might be secured by organized American exporters in a new post-war period.

The Webb-Pomerene Act permits combination for export trade only. It provides that an export association must not be in restraint of trade within the United States, nor may it re-

[14] *Ibid.*, p. 310.

[15] See Wm. S. Culbertson, *International Economic Policies* (New York and London, 1925), p. 414. The most important case was *American Banana Co.* v. *United Fruit Co.*, 213 U. S. 347 (1909).

[16] See *Official Proceedings* of the Fifth National Foreign Trade Convention, pp. 281-344.

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strain the trade within the United States, nor may it restrain the trade of any domestic competitor of the association. Furthermore, such an association may not do any act or enter into any agreement, understanding, or conspiracy which artificially or intentionally raises or lowers prices of the exported article or articles within the United States. Section 4 of the Act further provides that the prohibition against unfair methods of competition "shall be construed as extending to unfair methods of competition used in export trade against competitors engaged in export trade, even though the acts constituting such unfair methods are done without the territorial jurisdiction of the United States."[17] (Section 4 thus remedied the confusion resulting from the ambiguity of the anti-trust laws and previous judicial decisions mentioned above.) Every association formed under the Act must register full particulars with the Federal Trade Commission and file with the latter a yearly report on the business which it has conducted.

Types of Webb-Law Associations. A few associations have been formed to dispose quickly of a surplus commodity. The Pennsylvania Millers Export Association with 18 members and the Millers Export Association, Inc., of 160 members were both formed to facilitate the sale of wheat flour to the Allied governments immediately after the first World War; the former was dissolved in 1920 and the latter in 1922. Similarly, the Nogales Garbanzo Association, formed in 1921 to dispose of a supply of chick peas, was dissolved in 1922 when the surplus stock was exhausted.[18]

The vast majority of associations, however, have been formed to promote and maintain regular export trading. In general,

[17] Export Trade Act, 40 Stat. 516, Sec. 4.

[18] Two other short-lived associations were the Namusa Corporation with 56 members, formed under the auspices of the National Association of Manufacturers, and the Mississippi Valley Trading and Navigation Company with 25 members. The latter was a geographical organization, designed to promote the foreign sales of Mississippi Valley producers, while the former's intention was to sell abroad the products of the Association members. Both lasted only a few years (Namusa disbanded in 1922 and the Mississippi Valley Trading and Navigation Company in 1923), principally because it was found that the promotion of a number of unrelated products was unsuccessful.

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they are of four types: (1) The association serves as the central selling and shipping agent, the members sharing total business on a pro-rata basis. (2) The association serves as a price-fixing and payment-determining agency, but individual members do their own selling. (3) The association buys members' products and resells them in foreign markets. (4) The association pools export business obtained by independent selling members and divides business among the members according to quota. This type is unusual.[19]

Trade of the Webb-Law Associations. Between April 1918 and December 1939, 120 Webb-law associations representing 2,074 members had been formed; in no year have less than 43 associations been in operation. The accompanying table shows

TOTAL EXPORTS, WEBB-LAW ASSOCIATIONS, 1920-39

Year	*Total U. S. Exports*	*Webb Association Exports*	*Per cent of Total*
	(millions of dollars)		
1920	$8,228.0	$221.0	2.7
1921	4,483.0	91.2	2.0
1922	3,831.8	(a)	——
1923	4,167.5	153.5	3.7
1924	4,591.0	140.0	3.0
1925	4,909.8	165.5	3.4
1926	4,808.7	200.5	4.2
1927	4,865.4	371.5	7.6
1928	5,128.4	476.2	9.3
1929	5,241.0	724.1	13.8
1930	3,843.2	661.0	17.2
1931	2,424.3	311.0	12.8
1932	1,611.0	144.0	8.9
1933	1,675.0	143.0	8.5
1934	2,132.8	145.8	6.8
1935	2,282.9	137.7	6.0
1936	2,456.0	149.3	6.1
1937	3,349.2	197.9	5.9
1938	3,094.4	161.2	5.2
1939	3,177.2	237.1	7.5

(a) No data reported.

Sources: Bureau of Foreign and Domestic Commerce, *Foreign Commerce and Navigation of the United States, seriatim; Export Prices and Export Cartels*, p. 134; *Annual Report of the Federal Trade Commission*, 1940, p. 127.

[19] TNEC, *Export Prices and Export Cartels*, pp. 136-137.

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the total amount of business transacted by the Webb-law associations, compared with the total export trade of the United States between the years 1920 and 1939.

It will be noted that the years in which the Webb-law associations did the largest share of our export trade were those in which total exports reached their peak, i. e., the late twenties and early thirties. Since 1931, the relation of Webb exports to total exports has declined regularly, suggesting that the associations have operated most successfully in years of prosperity.[20] The years 1929, 1930 and 1931 also saw the largest number of associations in existence: the number rose to 57 but dropped to 43 between 1931 and 1935.

Considering the high hopes with which the Webb-Pomerene Act was received, it is surprising that such a small amount of our export trade has been carried on by associations. The explanation lies in several directions. The traditional individualistic attitude on the part of American business men has seemingly worked against coöperation and combination, in spite of prospects of more stable profits, and the fact that combinations of producers are prohibited from fixing prices and allocating quotas in the domestic market has probably discouraged the formation of associations for export trade. Furthermore, in most cases, large business organizations already well established in foreign markets have not been anxious to share their positions with smaller, less efficient firms. In addition, the growth of foreign competition has forced certain groups to abandon the foreign market; for example, the Associated Button Exporters of America was unable to meet Japanese competition, particularly in Latin America, and disbanded in 1933.[21]

[20] "It goes without saying that the idea underlying the creation of American export associations created by virtue of the Webb-Pomerene Act has very little in common with the export policy of cartels. These associations . . . are supposed to be established with a view to securing new foreign outlets for the products of the allied concerns. Consequently their creation and activity may be favored by world-wide prosperous business conditions rather than by contracting markets and shrinking purchasing power." Karl Pribram, *Cartel Problems: An Analysis of Collective Monopolies in Europe with American Application* (Washington, 1935), p. 75.

[21] *Export Prices and Export Cartels*, p. 167.

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All of these associations have carried on business in the face of increasing trade restrictions of foreign governments. Where the associations have been able to continue to trade in foreign markets, they have probably benefited from combination.

> The value of the Webb law, however, cannot be measured in dollars and cents. The most successful years were not those in which the exports reached the highest figures. The real measure of success was achieved in the period of depression when totals were smaller but exporters, beset by trade restrictions and unsettled markets abroad, were still able to continue their organization and ship to foreign countries through their cooperative agreements.[22]

Britain's Export Drive

Both the United States and Great Britain today are concerned that the export of those articles employed in the production of military matériel be stringently curtailed, and both are using licensing systems to accomplish this objective. Unlike the United States, however, Britain is faced with another problem: how to pay for her imports. In order to obtain the foreign exchange to pay for the vast quantities of war materials coming daily to her shores, Britain must not only maintain, but increase, the volume of her export trade. The terms of the Lend-Lease Act relieve the pressure on the British balance of payments, it is true, but they do not by any means furnish a solution for the problem of payments.[23]

Britain has a second motive for expanding her exports, i. e., to replace Germany as a supplier of goods and services in the remaining neutral markets of the world. German conquests in Europe and the submarine and air war on British shipping have cut down the number of neutrals still accessible, but so long as Britain can deliver the goods she will be maintaining markets for her own products at Germany's expense.[24] Thus it became

[22] *Export Prices and Export Cartels*, p. 134.

[23] See *The Economist* (London), March 22, 1941, p. 372.

[24] For a discussion of this point by Lord Forres, a member of the Willingdon Mission to South America, see *ibid.*, March 29, 1941, pp. 407-408.

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clear that Britain had in her export trade a two-edged weapon: an increase in her exports would help to strengthen her own resources, and, at the same time, weaken those of Germany.

After a considerable period of both industrial and parliamentary criticism of the Chamberlain economic policy,[25] an Export Council was formed in February 1940 which aimed to promote "the greatest volume of export trade which can be achieved under the conditions of war."[26] Under the chairmanship of the President of the Board of Trade, the Council was composed of fifteen representatives of business, government and labor (although the position of the last-named was admittedly minor), four members acting as a full-time executive committee. Lord Stamp, economic adviser to the government, was, until his death, a member of the Council. Representatives of the Ministries of Supply and Economic Warfare and the Treasury participated, and a Foreign Office official sat at meetings "when required". This group, in consultation with the Ministry of Supply and the Treasury, was empowered to determine the amount of raw materials which could be spared from the war effort for use in export industries and to plan their use by British industries. In addition, the Export Council worked actively to expand old, and find new, markets for British exports. Bilateral agreements and an enlarged export credit insurance system were put into effect, and it was expected that export subsidies would follow.

The administration of this effort, however, was delegated to industry. The Council urged the formation of export groups, each of which could speak for an entire industry and through which the Council could transmit its advice. It may be assumed that the export groups speak with authority for the industries they represent, as British industry before the war was more highly organized into price-fixing and quota-allocating

[25] See article by Sir Ronald Matthews, President of the Association of British Chambers of Commerce, *The Times* (London), "Trade and Engineering", Special Export Number, April 1941, p. 16; also *The Economist*, February 10, 1940, p. 244.

[26] *Aims and Plan of Work of the Export Council*, presented by the President of the Board of Trade to Parliament, Cmd. 6183, March 1940, p. 2.

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associations than was industry in the United States.[27] About 250 of these export groups have been formed, covering nearly every article of export from safety razors and suspenders to locomotives and textiles.[28]

Since details of the way in which the coördination between the Export Council, the export groups and industry itself are lacking, it is difficult to determine how successful the government has been in diverting production for the home market to production for export. It appears that manufacturers have in some cases, particularly in the woolen and cotton textile industries, been loath to abandon the home market, but rationing of raw materials is helping to bring recalcitrants into line.[29]

In March 1941 the Export Council was reconstituted as the Industrial and Export Council. In its reorganized state, it supervises the concentration of production in a smaller number of plants in order to release a larger supply of labor for work in war industries and to increase the number of plants for the manufacture of war matériel.[30] The plan now applies only to certain consumer goods' industries: hosiery, pottery, major textile industries, boots and shoes, and several others. The reorganization of these industries has been worked out voluntarily when possible, although, it was stated, resistance would be countered with compulsion.[31] Owners of closed plants have not received compensation from public funds.

It is too early to judge what effect these two forces—organization for export and organization for war-time production—will have on the future structure of British industry. In spite of the statement of Mr. Robert Hudson that forced cartel-

[27] See Ben W. Lewis, *Price and Production Control in British Industry* (Chicago, 1937), and *Hearings* before the Temporary National Economic Committee, pursuant to Pub. Res. 113, 76th Congress, 3d sess., Pt. 25, "Cartels at Home and Abroad", pp. 13047-13051.

[28] *The Economist, seriatim.*

[29] See (London) *Times*, January 4, 1940.

[30] Although it was estimated that from 500,000 to 750,000 workers would be released for work in war industries, actually only about 140,000 have been, or are likely to be, released. *The Economist*, November 22, 1941, p. 615.

[31] *Ibid.*, March 8, 1941, pp. 297-299.

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ization is not contemplated,[32] all straws seem to point to an enhanced degree of combination and organization. British industry thus may be in a better position than that of the United States to operate under possible post-war trade controls.[33]

Japanese Export Associations

Since 1925 a considerable part of Japanese export trade has been conducted by organizations of traders. Prior to that time most of Japan's export trade was carried on by small- and medium-sized firms, but, following the drive for the organization of domestic industry, exporters were encouraged to coöperate, and the Exporters' Association Law of 1925 permitted the union of exporters in self-governing bodies. These early associations seem to have confined their activities to the supervision and inspection of the quality of members'—and in some cases non-members'—goods for export.[34]

The Japanese export drive of the early thirties, when most other countries were passing through the great depression, led to higher tariffs and quotas on Japanese goods. During this period, the function of the export associations shifted from a passive to a more active control of Japanese export trade. In order to forestall further restrictions on its exports, the Japanese government made a series of agreements[35] limiting the amount of goods which its exporters could ship to certain markets. To the export associations fell the task of administering these government-negotiated agreements, and also the negotiation and administration of more informal quotas, the so-called "gentlemen's agreements". Under these formal and

[32] *New York Herald Tribune*, March 6, 1940.

[33] For a discussion of the difficulties attending the proposed reorganization, see T. R. Wilson, "British Concentration of Production", *Foreign Commerce Weekly*, June 14, 1941, pp. 447-448, 464-465.

[34] E. B. Schumpeter (ed.), *The Industrialization of Japan and Manchukuo, 1930-1940* (New York, 1940), pp. 753, 754; Mitsubishi Economic Research Bureau, *Japanese Trade and Industry: Present and Future* (London, 1936), p. 117.

[35] For example, the Indo-Japanese cotton piece goods agreement of 1934 and the agreement between the United States and Japan, restricting the export of cotton textiles to the Philippine Islands.

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informal quotas, the associations now began to control the volume of exports to certain countries and of certain commodities, and subsequently to exercise control over minimum export prices. The new form of control appeared first during 1931 and was especially marked in 1933 and later.[36]

With the increase in the amount of control exercised by the associations came an increase in their number. From 14 at the end of 1930, they jumped to 87 by the middle of 1936, when they included 10,300 members. The number of industries governed by associations increased from 36 in 1935 to 50 by the middle of 1936.[37] In 1935, of the total number of associations, 40 related to goods, 28 to markets, and 17 to both goods and markets. Thirty-four associations exercised a national control, while 51 were local in character.[38] By the end of 1935, 13 per cent of Japan's export trade was in the hands of associations exercising control over the volume and prices of exports.[39] "A much larger proportion of the exports (probably some two-fifths) was covered by Export Associations engaged in providing for the inspection of goods or the establishment of joint facilities for merchants." [40]

Certain countries (mainly Central and South American states) made their quotas on Japanese imports contingent upon

[36] G. C. Allen, *Japanese Industry: Its Recent Development and Present Condition* (New York, 1940), p. 12. With respect to compulsory control over prices and production, it has been observed that ". . . although effective control requires that the guilds should be given compulsory powers, the Government has to proceed with caution in granting them because of the repercussions that this might have upon other groups of interest. State policy, moreover, has not been self-consistent. The Foreign Office is anxious to impose strict controls, since it is conscious of the ill-feeling that has been aroused toward Japan by the sudden expansion of her low-priced exports. The Ministry of Commerce and Industry, however, which has its eye on the internal situation, is concerned rather with promoting exports and with the improvement in the position of the manufacturers; while the Ministry of Agriculture and Forestry has for its chief aim the protection of smaller producers against merchants and big business." Schumpeter, *op. cit.*, p. 760.

[37] *Ibid.*, p. 755; Mitsubishi, *op. cit.*, p. 125.

[38] Mitsubishi, *op. cit.*, p. 125.

[39] Allen, *op. cit.*, p. 12.

[40] *Ibid.*

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increased Japanese purchases. Hence a new category of export associations was formed in Japan to raise funds for the compensatory imports. Small amounts of wool were purchased under this arrangement from Argentina, Uruguay and the Union of South Africa; the increase in the price of wool fell most heavily on Japanese woolen manufacturers and exporters handling woolen goods.[41]

At first, the Japanese government apparently exercised little supervision over the activities of the associations, but in subsequent revisions of the Exporters' Association Law (in 1931 and 1934), it subjected restrictive agreements in regard to quantity and price to government review, and even to alteration on official recommendation. Furthermore, the government was given the power to issue controlling orders to non-members as well as to members of the associations.[42] Small subsidies have been granted the associations from time to time "to enable them to control small enterprises effectively."[43] Under the provisions of the Foreign Traders' Association Act of August 1937 the government has the power to order the establishment of new associations and to compel traders to join them.[44]

Reports of the formation of a new trading corporation for export control, "designed to buy the goods of Japanese producers and control their sale in the export markets,"[45] hinted that an even more drastic control of foreign trade might be taking shape in Japan. According to unofficial Japanese statements, not one, but several, trading corporations have been

[41] Mitsubishi, *op. cit.*, p. 620; Allen, *op. cit.*, p. 12; Margaret Gordon, *Barriers to World Trade: A Story of Recent Commercial Policy* (New York, 1941), pp. 360-361.

[42] Since 1932, this power has been invoked in the case of 22 guilds. Schumpeter, *op. cit.*, p. 755.

[43] Mitsubishi, *op. cit.*, p. 46; Schumpeter, *op. cit.*, p. 754.

[44] Under the same act, the government has set up a number of importers' associations, some of which are charged with the regulation and distribution among industries of certain raw materials such as rubber, wool and leather. Others have the task of regulating imports under trade agreements with foreign countries. Allen, *op. cit.*, p. 63.

[45] *New York Times*, April 15, 1941.

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formed. Apparently they have power to purchase and sell export goods, to supervise minimum price levels, and to oversee factories manufacturing for export as well as the business practices of exporters. Although it is denied that these new associations differ from the older ones, it is clear that if their activities are at all extensive, their authority will be far broader than that formerly exercised by the guilds.

Foreign Traders Combine to Administer Quotas

The control of imports through quotas has given rise to associations of importers in the countries applying the quotas, and, in certain cases, the quota system has stimulated the organization of associations of exporters in the countries furnishing the quota-controlled commodities. Particularly where the quota is administered under a licensing system, groups of importers have sometimes been in a position to exercise monopoly control over a given commodity. In Greece, for example, a few major importers of automobile tires managed to acquire a large share of the available licenses, whereupon they lowered prices to such an extent that most of the remaining firms were forced to go out of business. Since licenses were issued on the basis of the previous year's business, permits of the bankrupt firms were asigned to the monopoly group, who were then in a position to recoup their losses of the year before.[46]

In Switzerland, Czechoslovakia and Holland the responsibility for the administration of certain import quotas has been placed in the hands of importer associations, some of which were formed for this purpose.[47] The government used the associations to facilitate the issuance of licenses, and laid down the general regulations under which the licenses might be obtained. In Esthonia the law establishing import controls gave the state the sole right to import. The monopoly right was, however, delegated to associations charged with import administration.[48]

[46] H. Heuser, *Control of International Trade* (London, 1939), p. 181.

[47] Gordon, *op. cit.*, p. 263; Heuser, *op. cit.*, pp. 179-180.

[48] Wheat, flour, sugar, salt and mineral oil were among the products so required. Heuser, *op. cit.*, pp. 179, 180.

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The tendency toward combination on the part of exporters to quota countries has been even stronger than among the importers in those countries. Since only a fixed amount of the quota-controlled products can be sold—usually less than the ordinary supply—the impulse for exporters to combine in order to secure maximum profits is understandable. Their governments, in fact, have urged them to combine in order that their national treasuries, rather than those of countries imposing quotas, may benefit from the restriction of supply.

In Austria and other countries of southeastern Europe, as in Japan, export combinations have regulated the flow of exports to quota-restricted markets. Associations formed under an Austrian decree of May 1933 aimed consciously at preventing any competition among exporters which might dissipate benefits from preferential agreements. Regulations agreed upon by members were binding, subject to a government veto if deemed not in the public interest.[49] Similar control of exports, particularly of agricultural products, was exercised by Yugoslavia.[50]

Export Subsidies and Exporter Combinations. Export subsidies have been accompanied in several countries by the growth of export combinations. In most cases, however (with the exception of Germany), agricultural products only have been affected. Exportation of subsidized agricultural products in Hungary was handled by export syndicates with the active coöperation of the government. These syndicates have also exercised some degree of control over domestic prices.[51] Australian control over the marketing of certain primary products began before the first World War. In 1936 the enforcement of a uniform domestic price was held unconstitutional, but an attempt has been made to carry on some of the marketing schemes through voluntary control by producers' organizations.[52] In

[49] Gordon, *op. cit.*, p. 358.

[50] *Ibid.*

[51] *Ibid.*, p. 337.

[52] *Ibid.*, pp. 331-332.

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New Zealand, the exportation of many primary products, including meats, dairy products, honey, kauri gum, fruit and poultry, has been conducted through boards of producers and government officials exercising monopoly control over exports.[53]

Bilateral Quotas and Combination. Bilateral quotas presuppose the existence of producer organizations within two or more states. They are "largely an extension of the practice of large industries forming themselves into loose international cartels for the purpose of the division of international markets."[54] Quota terms are set as a result of negotiation between the producing interests in the countries involved. Once agreed upon, the terms are submitted to the governments of the negotiating interests for ratification and, if accepted, attain the force of law. Under bilateral quotas, the licensing of imports is generally left to the exporting country—most often to its chambers of commerce or manufacturers' associations.[55]

French and German interests concluded about 150 of these bilateral agreements under the supervision of a Franco-German Economic Committee,[56] especially during 1931. Most of them continued in force until 1933 when they were revised downward under the new French policy of using quotas as weapons of commercial bargaining.[57] Similar ententes were reached between French and Belgian producers, and French and British manufacturers.[58]

[53] *Ibid.*, p. 330. See also W. L. Holland (ed.), *Commodity Control in the Pacific Area* (Stanford University, 1935), p. 320.

[54] Heuser, *op. cit.*, p. 116.

[55] *Ibid.* See also P. T. Ellsworth, *International Economics* (New York, 1938), p. 385.

[56] The agreements covered such products as chinaware, glass, electrical machinery, gas stoves, furniture, lamps, plumbing equipment, clothing, socks, tool machines and woodware.

[57] Heuser, *op. cit.*, p. 117. Belgium and Holland also made limited use of bilateral quotas.

[58] In the case of glassware, Austrian, Belgian and Czechoslovak interests, as well as German, participated in the discussions concerning the amounts which each would send to France.

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Before the second World War, British and German industrialists were attempting to form an extensive system of international cartels to which producers in other countries would be urged to adhere.[59] Both groups were anxious to enlist the active support of their governments "to counteract competition from the industries of other countries which refused to become parties to the agreement, if such competition threatened to nullify the agreement."[60] German occupation of Czechoslovakia in March 1939 put an end to negotiations.

. . . . . .

We have seen that when states have been forced either by economic or military necessity to control the quantity or the destinations of exports and the quantity and sources of imports, there is a tendency for foreign traders to combine with a consequent diminution in competition.[61] Sometimes this trend has been actively sponsored or forced on foreign traders by governments in the hope that restriction of competition would ensure a maximum of foreign exchange. Sometimes importers or exporters have banded together voluntarily to obtain these benefits for themselves.

We cannot expect that the end of the war will bring about an immediate reversal of these trends in organization for foreign trade. It is more likely that the war will hasten the investiture of foreign trade with a public interest. If this assumption be correct, what of the future of American foreign trade and its conduct? The bases for our decisions will be formed, of course, in the conditions under which open military conflict ceases. Should Germany not be decisively defeated, then we would obviously be forced to pursue a program of

[59] League of Nations, *World Economic Survey, 1938-39*, p. 190.

[60] *Ibid.*

[61] There have been scattered reports of trade associations serving in this war as intermediaries to expedite shipments to this country. The Association of American Wood Pulp Importers concluded late in 1939 an agreement with the German government whereby the Association would obtain guarantees of non-re-export from American importers of Scandinavian wood pulp, and forward them to the German government by way of the State Department. *New York Times*, December 6, 1939.

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economic warfare with major emphasis on building up our economy and that of our allies—if we had any—for future hostilities, and preventing in so far as possible a similar achievement on the part of our enemies. Under such circumstances, economic warfare and not the economic welfare of our own citizens would be the touchstone of government commercial policy. On the other hand, a decisive German defeat might make it easier for us to apply welfare criteria to foreign trade control.[62] In either case, states may be forced to continue foreign trade controls into the post-war period, and in spite of reassuring speeches by government officials, the United States may not be able to pursue its traditional "liberal" trading policies in a world of "unliberal" states. In other words, the exceptions to our liberal policies of the pre-war years—quotas, subsidies, and so forth—may in the future become the norm.

Many of the arguments advanced in the United States at the end of the last war to bolster the case for combination in export trade will apply in large measure again: the existence of large foreign combinations (to which have been added the political implications of trade with totalitarian states); the need for protection against concentrated government or semi-official buying of vast quantities of supplies for reconstruction; protection of war-born industries; the need for reopening European markets to American agricultural products. In addition, foreign markets may continue to be hedged about with quota restrictions and exchange controls, set up to cope with the economic and financial dislocations produced by the war.

What then of the American private foreign trader? What would be his status in a post-war trade-controlled world? We have ready at hand two types of organizations which could be

[62] It does not appear that Great Britain, even if victorious, will instantaneously abolish war-time controls instituted since September 1939. Commenting on a speech by the President of the Board of Trade, in which he discussed the necessity for post-war trade controls, *The Economist* wrote: "Control of foreign trade, in the sense of guidance to remove its irregularities or even to limit its erratic expansion, is inevitable and perhaps even desirable." May 17, 1941, p. 646.

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transformed to carry out widespread control over our foreign trade. On the import side are the fifty or so import associations, covering most of the important commodities in our import trade. On the export side are the Webb-Pomerene associations.[63] Up to the present, the latter, with a few exceptions, have played a relatively minor rôle in the conduct of our foreign trade. Nonetheless, they have established precedents. Similar combinations of importers have been discouraged and are at present illegal. A revision of the Webb-Pomerene Act or a new law pertaining only to import associations would remedy this situation.

Going a step beyond combination, another possibility might be the establishment of government monopolies for the import and export of many of the more important commodities in our foreign trade, a procedure which has been followed by several European countries. Norway, Switzerland, Sweden, Czechoslovakia, France, Italy, Germany and the Netherlands all have utilized government monopolies to control imports of various commodities.[64] The United States, under pressure of war-created shortages in strategic materials, has been forced to undertake a program of government purchasing. In June 1941 the Rubber Reserve Company became the sole buyer of

[63] The use of Webb-Pomerene associations to protect American export trade has been suggested by Henry A. Wallace: "Such an arrangement [some form of combination for foreign trade] would not be an entirely new departure for the United States. There are precedents. In 1918 Congress enacted the Webb-Pomerine [*sic*] law—to overcome obstacles to American exports anticipated under peace conditions from the competition of combinations of foreign producers and buyers. . . . The situation today is far more critical than it was then; it exposes the traders of the United States to the competition in world trade not merely of foreign business combinations but of foreign governments, some of them bound together with military as well as economic ties. As isolated, competing individuals or corporations in foreign trade, American farmers and businessmen will be helpless. Almost certainly, if totalitarianism in Europe survives the war, they will have to get together in some cooperative arrangement under Government auspices." *Report of the Secretary of Agriculture*, 1940, p. 8. See also *New York Times*, January 25, 1942, for an account of the formation of the United States Paper Exporters Council.

[64] See Gordon, *op. cit.*, pp. 301-307; also U. S. Tariff Commission, *Italian Commercial Policy and Foreign Trade, 1922-1940*, pp. 42-47 (Report No. 142, Second Series).

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crude rubber in the Far East.[65] When Japanese conquests in southeast Asia further restricted United States supply sources, a number of strategic materials, including tin, antimony, chromium, copper, lead and tungsten, were placed under government import monopoly late in December 1941.[66] The Metals Reserve Company and the Defense Supplies Corporation are now handling all imports of these items.

In post-war years direct government purchasing and selling might be considered less in accord with our system of free enterprise than government regulation of trade through associations of importers and exporters. But the latter would obviously have to conduct their business under government supervision and in accord with government policy. For otherwise, we should be permitting private group interests to determine conditions of trade which are the concern of the entire nation. The only organism competent to make and enforce rules and regulations in the national interest is the national government. Hence, it must supervise all agreements between organizations of exporters in this country and producers in other countries.

It may be objected that a discussion of the conduct of peace-time trade under conditions of government control or supervision hints at abandoning one of the very principles which we are fighting to maintain. It does not follow, however, that an attempt to survey realistically the broad currents which seem to be moving away from an atomistic toward an organistic view of society is to retreat into the enemy camp. The question no longer is whether or not we shall regulate business, but how and for whose benefit. This seems to be particularly true of foreign trade. A spokesman for the State Department has said: "Business from infancy in this country has not been in the habit of looking upon enterprise as primarily a project of national welfare. In commercial policy

[65] *New York Times*, June 23, 1941.

[66] *Ibid.*, December 28, 1941. Other materials include cadmium, graphite, kyanite, rutile and zircon. All of these items are alloying or lining materials. In all, 26 items appeared on the list as of March 1942.

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the trend has been to regard this field as an opportunity for exploitation. This view of international trade can no longer be maintained." [67]

Thus it seems worth while to see what the American economic system has to offer in the way of already functioning institutions which might serve to bridge the gap between our old individualistic approach and a new social approach. There is no need for a blueprint organization—indeed such a blueprint would probably be of little value when the time actually came for its application. What we need now, before the war ends, is plenty of exploratory work which will carefully assess the value and applicability to possible situations of existing American institutions. It is believed that such an approach would in large measure obviate the danger of authoritarianism, for controls hurriedly and ill constructed would do immeasurably more to hasten the advent of an authoritarian form of government than those which have been carefully and painstakingly planned in advance.

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[67] Address by Raymond H. Geist before the Export Managers Club, March 25, 1941. Department of State, Press Release, No. 127, p. 3 (mimeographed). See also the report of the First World Trade Conference Panel conducted by the editors of *Importers Guide* and *Guia de Importadores*, June 19, 1941, especially pp. 5-6.

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ETHICAL STANDARDS AND POLITICAL STRATEGIES

A DANGEROUS assumption about the nature of morality lies at the root of the more disastrous political strategies of our time. To assume the existence of an absolute ethic, to interpret right behavior as conformity to unconditional rules of good conduct has serious results. St. Francis of Assisi maintained that men are under the absolute command of God to love their neighbors as themselves. Machiavelli believed that if a prince did not remain faithful to a priori prescriptions of good behavior he was acting contrary to morality; no matter what the practical results, if he lied, or killed, or stole he was doing wrong. Kant argued that morality consists in obedience to a categorical imperative of duty. Whenever rules of conduct are thus believed to be right or wrong in themselves without reference to their social consequences, an absolute ethic is assumed.

There are today two types of men who presuppose such an ethic, and thereby tend to disqualify themselves for making political decisions. On the one hand, there is the man who is confident that categorical rules of right behavior can be followed and so insists on literal obedience to them. On the other hand, there is the man who is convinced that such rules cannot be followed, and so advocates that they be ignored.

To the first class belong our modern monks, and what Alfred Zimmern happily calls our "part-time monks".[1] These men want to live strictly according to an absolute ethic. They intend to love their neighbors "with a passionate literalness of approach." They do not propose to lie, or to kill, or to

[1] A. E. Zimmern, "Morality in Politics", *Queen's Quarterly*, August 1935, p. 292. As the author points out, the use of the word monk in this connection is perhaps unfair to an ideal of life the nobility of which is recognized. Obviously the category is more suggestive than it is precise.

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steal. Indeed in their eyes moral rules must be respected regardless of the cost either to themselves or to society. The monks, unwilling to make any compromise with the prudential ethic of the world, draw apart into a simpler sphere of their own, living in isolated communities where they can find their neighbors and be of service to them, or joining monastic groups where they have no wife or child of their own to monopolize their love. The part-time monks are willing to make some concessions to expediency and continue to live on in the world, sharing, however, only in those activities which promise not to involve them in a compromise with what they believe is an essential and inviolable element of their code. They will not take life, or they will not lie. At some point they say: "Here I stand before an absolute; this is unconditionally forbidden." Like the man who announced he would never learn to drive an automobile for fear he might become involved in an accident and kill someone, at one stage they withdraw from the world to remain true to their code.

At their best the monk and the part-time monk play a constructive part in community life. They often represent a quality of living which by its attractiveness condemns conventional practices and lifts the moral standards of a whole group. Moreover, their moral earnestness and continual concern for improving the quality of social relationships constantly lead to beneficial social practices. But these qualifications do not lessen certain unfortunate effects of their position on political strategy.

In the first place, they are unable to take full-time responsibility for political activity.[2] The monk renounces responsibility for major political decisions altogether; the neo-monk accepts part-time responsibility up to the point where his essential rule of action is not violated, or is not likely to be violated. So the monk ignores the crucial political problems.

[2] It is helpful in this connection to recall Max Weber's classic distinction between *Gesinnungsethik* and *Verantwortungsethik*, ethic of opinion and ethic of responsibility. See "Politik als Beruf", *Gesammelte politische Schriften* (Munich, 1921).

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Living in Utopian communities he comes to think in perfectionist terms and disregards the immediate problem of raising the level of conditions in society as a whole. He plays no part in the making of political decisions, and it is possible that his very neutrality on those matters may in fact encourage a course of events which leads to conditions that are worse than before.

On the other hand, the quasi-monk continues to participate in political decisions, but is prepared to disassociate himself from political movements the moment a decision is called for that would cause him to transgress his a priori rule. If he holds a position of leadership he may call off a movement entirely, as Gandhi did in the First Civil Disobedience campaign in India. More probably, like the pacifist George Lansbury on the eve of the Abyssinian conflict, he will resign his leadership and turn over a political party to the guidance of others. Or like William Jennings Bryan, when the United States went to war in 1917, he will surrender his responsible position in the government. No matter how serious the effects upon his cause he abides by his code. So from the beginning he puts his cause at the mercy of the opposition, particularly if he has widely circulated his scruples. Knowing there is one line of action which will not be taken, an hostile group can create circumstances which make that line of action unavoidable. The movement must then be abandoned, or its leadership must resign. Fortunately, even quasi-monks do not always act consistently, for Gandhi refused to call off the Second Civil Disobedience campaign when sporadic acts of violence occurred among his followers.

More serious still, however, is a second result which follows from the literal application of an absolute ethic. In so far as the monk and quasi-monk deal with political problems, they cannot handle them objectively. They approach most problems with a preconceived idea of what ought to be done. Convinced of the a priori rightness of one alternative, they do not consider frankly the social consequences that may be involved in it. They tend to adopt a strategy without regard for its effects.

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So the purist of "international law" believes his country should strictly observe the rules, no matter what another country does, or what the consequences. So absolute pacifists do not sanction the use of violence or the initiation of moves which might culminate in violence, even when to refuse to do so quite clearly increases the amount of violence that must ultimately break out. In Germany during the early twenties they did not support the proposal to form a republican army composed of people whose deepest interests would have led them to maintain the Republic against the threats of tyranny, so Hitler came safely to power. In May 1933 they did not encourage England to join with France in intervening in Germany to prevent her rearming, so Hitler was able to start what promises to be the most disastrous of all wars. While the part-time monks are not by any means altogether responsible for the turn of events, they are in part responsible; for in periods of crisis their action tends to be defensive rather than objective. They are apt to avoid facing the consequences of their decisions, for fear of being shaken in their a priori judgments. So often they are more concerned to safeguard their moral position than to improve the objective situation, like some absolute pacifists, who today spend greater energy in avoiding participation in violence than in doing what they can to increase the possibilities of a just peace. There is of course the other type of absolute pacifist thoroughly committed to the task of building a better world by non-violent methods. It is likely that men who resist all war hysteria will be able to devote their attention to the needs of a peace settlement with greater objectivity than those who have been primarily concerned with getting military victory. Some pacifists make this the utilitarian justification of their position. On the other hand, it is also probable that the judgment of a pacifist regarding post-war political organization will remain warped by his irrevocable opposition to certain political methods.

As long as the monk and the part-time monk comprise only a small portion of a population, they do not seriously imperil the chances of getting an adequate strategy. Indeed, there is

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a good deal to be said for the medieval notion of dividing moral responsibilities between different vocations in the population, so that a few very good monks compensate in part for the ordinary run of sinner. On condition that they are not too numerous, monks and part-time monks may in fact have certain positive effects upon political strategy. Resignations and martyrdoms are perennially necessary techniques of protest against both minority and majority decisions, and it is still the absolutist who is most likely to make the requisite protest. In the long run a Quaker's refusal to compromise with the war system is probably more politically valuable than his positive participation in any war effort, especially since he may be temperamentally unfitted for the latter rôle. Furthermore, the sharp line drawn by absolutists between action informed by principle and action arising from mere expediency may force our statesmen to reflect on the moral issues involved in their political decisions. A functional group of Quakers or Jehovah's Witnesses, by reason of their example, can help prevent statesmen from altogether renouncing moral considerations in politics. Today, however, Quaker fellow-travellers are no small minority of our population. Moreover, as a result of the democratic trend, most of them do not disassociate themselves from politics to pursue a saintly vocation or to preserve alive moral convictions to which they believe the world must some day return. Rather, as Elton Trueblood described them: "Their characteristic action is to try to manipulate a postal card barrage on Washington; their characteristic speech is the reference to the crisis as 'the President's War.'" [3] When neo-monks flourish in large numbers, there is grave danger that their over-scrupulous reservations will bedevil the political task.

To the second class of men who start with the assumption of an absolute ethic belong our modern Machiavellians and our neo-Machiavellians. They believe they violate a priori rules

[3] D. Elton Trueblood, "The Task of a Christian Minority", *The Friend*, September 18, 1941, p. 85.

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of right conduct every day of their lives. They may be able to avoid violence or lying in their private and intimate relations, but in their public relations they find themselves inescapably involved in unrighteousness. They therefore acknowledge that an absolute ethic is inapplicable to the tasks of politics. Since the only ethic for the pure Machiavellians is this absolute one, they abjure ethics altogether in their political dealings. Agreeing with their famous master that right and wrong have nothing to do with politics, they concern themselves with the success of their schemes and not their moral quality. The neo-Machiavellians, on the other hand, invent a special kind of ethic to apply in political matters which, unlike the absolute ethic, is expressed in adjustable rules of behavior. While they agree with the pure Machiavellians that no political acts are right, they maintain that some acts are *relatively* better than others. The relative worth of a choice is to be measured by its contribution to certain explicit political ends such as social order or social justice.[4]

The advantages of a Machiavellian position in dealing with political tasks are obvious. Both the Machiavellian and the neo-Machiavellian give themselves wholeheartedly to political activity in a way not open to either the monk or the part-time monk. Furthermore, they are able to meet political crises with far greater objectivity and flexibility. Unimpeded by the concern to adhere strictly to a rule of proper action, they are free to consider the social consequences of their policies, and to mold those policies accordingly. Yet their position, also, has its calamitous effects upon political strategy.

In the first place, they usually content themselves with the conventional patterns of political behavior. The Machiavellian takes to current practices, no matter what their quality, without qualm of conscience; the neo-Machiavellian takes to them also, though with some misgivings. The Machiavellian does nothing to raise the level of political strategy. While

[4] It is perhaps well to note that Machiavelli himself, at his best, did not argue the position we attribute to the modern Machiavellian. Taking his work as a whole, and not simply *The Prince*, Machiavelli was actually closer to the neo-Machiavellian.

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continuing to be optimistic about the possibilities of improving the quality of his personal relations he becomes pessimistic and defeatist about political behavior. "For the manner in which men live is so different from the way in which they ought to live, that he who leaves the common course for that which he ought to follow will find that it leads him to ruin rather than to safety." [5] In the attainment as well as in the maintenance of power the modern Machiavellian justifies any strategy. He makes violence normative, commonly advocating the final extermination of his enemies. In the guise of a patriot he calls for the deliberate killing of non-combatant enemy women in order to bring the war home to their husbands, and for "the wiping out of every last German."

On the other hand, while the neo-Machiavellian is not an outright cynic regarding the possibilities of improving the quality of political behavior, his position easily generates a similar defeatism. For he substitutes the goal of social justice or order for the Machiavellian principle of power, and justifies whatever is necessary to promote that end. The quality of the end he is after makes a good deal of difference to the strategies he adopts. So a modern Lutheran, who believes social order and peace are the highest political goals, advocates submission to the Hitler tyranny rather than non-violent resistance or war. Or a Christian Socialist, who believes social justice is the more worthy goal, advocates resistance to that tyranny no matter if it does mean war. The danger here, however, is not that passive submission or overt violence may at times be advocated, but that no tests are recognized by which some strategies are explicitly discouraged because of their devastating social consequences. With the absolute ethic defined as an impossibility the neo-Machiavellian chooses whichever among current practices promises to work. He is apt to be more contrite than the pure Machiavellian because he acknowledges that his political decisions are inevitably wrong. "For the good that I would

[5] Niccolo Machiavelli, *The Prince*, chapter xv. The intimate relation between perfectionism and cynicism is ably discussed in Reinhold Niebuhr's *Christianity and Power Politics* (New York, 1940).

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I do not: but the evil which I would not, that I do." However, the assertion that no acts are right may not only encourage humility, but may produce the less wholesome reaction aptly expressed in the Limerick:

> In the classroom, when teacher had quit it,
> A student said, now I have hit it,
> Since nothing is right
> I must find out tonight
> The best sin to commit, and commit it.

A second consequence of the position taken by the Machiavellians and neo-Machiavellians is no less unfortunate. They tend not simply to accept conventional political practices, but they also tend to discourage the improvement of the ends of strategy. The pure Machiavellian eliminates all ethical considerations not only in selecting his means but also in choosing his objectives. He takes for granted that achieving political power is unconditionally worth while, and dismisses any criterion for testing that aim in relation to others. In contrast to the monk who urges obedience to an absolute *rule* of conduct, the Machiavellian thus advocates loyalty to an absolute *objective* of conduct, a position which has its special perils. For if no ethical principle is recognized as a guide in selecting political objectives, their choice remains an wholly arbitrary matter. Moreover, the a priori selection of power as an aim is singularly capricious, since power is a neutral condition that can be used to promote any cause. A single-hearted devotion to the task of making America strong may in the long run assure the collapse of Hitler's tyranny, but it may also produce a new and devastating democratic imperialism. The Machiavellian is not merely helpless in forestalling this outcome but he even tends to encourage it. Admitting no principle in terms of which he can criticize and reject the baser objectives of power, he supports a strong America, no matter what it does. While the monk typically distinguishes himself by an over-critical attitude toward every political movement, the Machiavellian characteristically follows the crowd, shouting "America, right or wrong."

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On the other hand, the neo-Machiavellian may make an effort to retain the absolute ethic as a principle of discriminate criticism between the ends of political strategy. He may, for example, use the commandment of love as a guide in selecting social justice rather than social order as a political goal. But the practice of using an absolute ethic as a criterion of criticism encourages another result. Being convinced that the ethic to love your neighbor as yourself has never been and can never be applied in politics, the common run of neo-Machiavellian easily ignores it altogether, thus losing not merely a rule of conduct but also a criterion for testing ends of action. He may rescue an ethical criterion with which to measure the relative merits of alternative ends by redefining the absolute ethic as an ideal or principle of criticism. If such a redefinition takes place he avoids the worst perils of the Machiavellian position, for, in the light of that principle, he can discard some objectives of strategy as unworthy. This explains why the neo-Machiavellian at his best is often the convinced reformer: the Christian Socialist or the New Deal evangelist. If, as is so frequently the case, however, the redefinition does not take place, the neo-Machiavellian becomes as opportunistic and uncritical as the best of them.

When the Machiavellian and his fellow-travellers were confined to a ruling class or the entourage of a prince they were not so dangerous as their modern representatives. They could be ruthless on the stage of politics while most of the people quietly continued to preserve a more respectable morality. There could be a division of moral responsibility whereby the prince was a cruel fighter and his subjects humble and hard-working folk. But now the bulk of our people are politically active and many of them have discovered the secrets which once belonged only to their leaders.[6] Under ancient tyrannies "robber morality" was held to be justified only in extreme cases and then solely for the ruling groups, but today, under fascist tyrannies, "robber morality" is publicly acknowledged

[6] Karl Mannheim, *Man and Society in an Age of Reconstruction* (New York, 1940), p. 72.

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to be proper for whole nations of men that are striving for status. In more democratic states waging modern war, increasing numbers of common men and women are tempted to see violence not merely as an unfortunate last resort but as the norm of all political behavior. When the Machiavellian and the neo-Machiavellian are as plentiful among us as they already are today, their patent cynicism may finally corrupt our political task.

The primary difficulty with the position of both the monk and the Machiavellian is their initial assumption of an absolute ethic; for the belief that rules of conduct are unconditionally right or wrong involves the confusion of two distinct ideas: the good and the right. The good is what is worth while for its own sake, what a man conceives to be of unqualified value. There are things good in themselves which a man enjoys here and now on their own account, if he is not to be forever caught in the pursuit of means. There is also the good which he believes ultimately desirable, the love of God, peace, truth, or beauty. However the good is defined, and on whatever level of experience, it has the quality of being worth while as an end in itself. The right on the other hand is the best way of promoting the good. It is the choice among available alternatives which is most likely to further the final value. To one it is a service to his neighbor, to another a diligent effort to develop non-violent techniques of resistance to evil, to still others a long and arduous research task, or the painting of a picture. These activities are not right in themselves, but only in so far as they promote what is considered ultimately desirable. A man thus derives his idea of the right from his conception of the *summum bonum*. The common mistake of the monk, the part-time monk, the Machiavellian and the neo-Machiavellian is to identify these two logically derivative ideas. They define the good as an ethical imperative. Whether they interpret the good as perfect disinterestedness, or peace, or truth, they call it an ethic of right action. One ought to be wholly disinterested, one ought to avoid all violence, one should tell the whole truth. They identify what

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they are ultimately after with what they believe ought to be done at the moment.

This identification of the good and the right gravely imperils the functions which these two ideas serve. The good is above all the criterion in terms of which right actions are distinguished from wrong. The right is the action one ought to choose among the possibilities which are open. The one is a criterion of value, the other an ethic of action. These two functions are what the neo-Machiavellian tries to provide for when he postulates two kinds of ethics; his absolute ethic serves in part as a criterion, while his interim political ethic indicates the relatively better choice among actual alternatives. But the position of the neo-Machiavellian is inadequate on two scores. In the first place, he wrongly attributes to a criterion the character of an ethic. The good is not an actual alternative of action. Opportunities do not present themselves to love perfectly, or to act wholly disinterestedly. It is impossible to escape indirect participation in the taking of life; or the expression of partial truths. Even the highest-minded monk does not avoid implication in exploitation and violence, nor escape either passion or bias simply by thinking them away. While the neo-Machiavellian admits that an absolute ethic is universally violated in political life, he does not go far enough in admitting that such an ethic is never a choice in any relationship. If the good is then not an alternative of action, and yet, according to the neo-Machiavellian, it is right to choose the good, everything we do is wrong. When the impossible becomes an ethic, we are put forever in a position where nothing we can do is right. The only logical conclusion of the matter is that there are no ethics at all.

In avoiding this disastrous inference the neo-Machiavellian falls into a second error. He proposes to leave personal concerns to the jurisdiction of his absolute ethic while recognizing a special political ethic made up of adjustable rules of action. In fact, however, such adaptable rules constitute the only sort of ethic that exists in any sphere of experience. There are not two kinds of ethics, an absolute one for one sphere and a rela-

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tive one for another; there is only a relative ethic. For in all actual situations, rules of conduct clash with one another, and we must continuously choose between them. Shall we protect the naughty child sought by his father by hiding the truth of his whereabouts or shall we tell his whereabouts and be responsible for his punishment? Shall we practice non-violence, and let a neighboring nation be destroyed, or shall we attack first and preserve its independence? Shall we send an Expeditionary Force to Europe and thereby lose large numbers of young Americans in an effort to shorten the war, or shall we withhold such a force while the war is prolonged and more Europeans are killed? Given limited alternatives of decision, we cannot escape weighing one rule against another and choosing whichever alternative seems the best solution of the dilemma. There is no difference in this respect between a man deciding which of two girls he is going to ask to marry him, and a statesman deciding between alternative strategies. Some pragmatic pacifists, disassociating themselves from their absolute brethren, claim that participation by the United States in war is wrong, because the effects of war are more disastrous than the results of refusing to fight. Whatever the wisdom of their judgment, they justifiably hold that the rightness or wrongness of a strategy depends upon its social consequences.

Any way one approaches the matter, a basis for wise political strategy is difficult to arrive at, unless one starts with a clear distinction between the good and the right.

In what situation, then, do we find ourselves when we make this distinction and thus deny an absolute ethic as the basis of our conduct? The monk would have us believe that on that account our actions become unprincipled. But certainly this does not follow. We must bear in mind the difference between an absolute ethic viewed as a system of specific rules considered right in themselves and an absolute value held to be good in itself and therefore unqualifiedly worth working for. While we reject the system of rules, we can at the same time affirm the validity of a universal value as the ultimate criterion for our practical choices. We can acknowledge an ideal good

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beyond the partial values of political life, and thus recognize a universal standard for discriminating between goals and means of strategy. So, avowing the ultimate worth and dignity of human personality, we can pledge ourselves to the creation of conditions where every person will be able to develop freely to his fullest capacity. While, in the light of this value, no political objective is unqualifiedly worth while nor any tactic categorically right, some objectives become more worth while than others and tactics which are most likely to promote those objectives become right. The terms "right" and "wrong" are then not merely convenient variants for "expedient" and "inexpedient", "successful" and "unsuccessful". They refer to those strategies which show promise of promoting conditions where every man, woman and child can live according to his own highest ideals.

In practice this means two things. In the first place, political goals are tested to discover those which promise to be most conducive to the good. The validity of a choice cannot be finally proved, but its significance can be checked on the basis of experience. So we select the objective of social justice and not merely social order, since order may be based on an exploiting tyranny. We aim for equal economic opportunity and not economic liberty, since the latter may allow a few to monopolize the limited opportunities of life. In the second place, intermediate norms of conduct are formulated to serve as guides in choosing the means to these objectives. These norms include what experience indicates on the whole promotes the good: respect for the plighted word, the treatment of men as ends and not as means, acknowledgment of the solidarity of all nations and races, and the equal claim of all to share in the chances of life. Strategy is not slavishly bound to these principles, but they are taught and used as leads in selecting practices that violate as little as possible the final good. So if violence is necessary as a final resort to keep open the channels for increasing justice, we do not altogether shrink from it, but we normally advocate non-violent tactics to promote justice because such tactics do not destroy life.

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The neo-Machiavellians commonly charge that the denial of an absolute ethic, and the consequent admission that some actions are right, inevitably encourages self-righteous and therefore ruthless action. But this also is by no means necessarily the case. The ideal good to which we are committed can never be wholly actualized, and therefore stands not merely as a criterion of choice but also as a principle of judgment on all our achievements. Some actions are right because they are the best choice we can make between limited alternatives. But they do not represent a fulfillment of the good. Indeed, we recognize that even a right action never unqualifiedly promotes the good, for results may follow that delay or undermine existing approximations of the final value. So participation in war may not only destroy an unjust tyranny but it may also bring down the democratic structures through which we hoped to work in building a juster peace. John Bennett put the matter well in saying: "War is never good because it is always primarily destructive of values. It may be right in those circumstances in which it is the only way of preventing a greater evil." [7] There is much to be said for the humility produced by the neo-Machiavellian tension between the right he believes he ought to do, and the wrong he actually succeeds in doing. But this way of stating the matter involves too sharp a distinction between an absolute right and relative wrongs. There is the truer tension which can be as effective in checking our pride and can be far more effective in encouraging us to improve our ways. It is the tension between the good we finally hope for and the poor approximations we actually accomplish.

The view of morality presented in these pages does not necessarily promote agreement on current matters of political decision. If morality involves taking a whole situation into account and choosing whatever action is most likely to forward the good, some will disagree with our definition of the good, and many will differ with our judgment of right action. Yet

[7] John C. Bennett, "Not a Holy War", *The Christian Century*, October 8, 1941, p. 1243.

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the fact remains that this view of morality is the indispensable minimum foundation of an adequate political strategy. On the one hand, it secures us from approaching the political task with a preconceived idea of what ought to be done. Strategies are selected on the basis of their probable results, not their self-evident value. Moves in the war are discussed in terms of alternatives which will tend to further what we are finally after, not in terms of a priori judgments about the use of violence. On the other hand, this conception of morality also saves us from rejecting considerations of right and wrong in making our political judgments, or inventing a special kind of ethic to avoid this outcome. Political decisions are treated like other decisions, only with the awareness that greater values usually depend upon them. Statesmen and citizens, no less than private persons in their intimate relationships, are held responsible for taking the total situation into the focus of consciousness to choose the best alternative that is open to them. Only if we are thus fortified against both the too-righteous reservations of the monk, and the cynical excesses of the Machiavellian, can we confront responsibly the momentous political tasks of our generation.

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MR. MADISON'S WAR: AN UNSUCCESSFUL EXPERIMENT IN THE CONDUCT OF NATIONAL POLICY

PRESIDENT POLK, in his war message to the Congress in 1846, described how he had directed the maneuvers of Minister Slidell in Mexico, how he had sent troops to occupy a strip of disputed territory, how the Mexican government had reacted to all this, and how the situation had become one which called for a declaration of war. Congress obediently declared war, but not without protest from outraged Whigs. "The Constitution", declared one, "gives Congress the sole power to declare war. Perhaps some gentlemen may suppose that that clause in the Constitution simply means that when the President gets us into war, it is the business of Congress to make it known—to declare it—or recognize the fact. This, however, is not my understanding of it." [1]

Even if earlier history had not established the fact, it could scarcely be doubted after 1846 that the duties of the president in conducting national policy were such that the views of Congress on war or peace might be rendered largely innocuous. The idea is nowadays perfectly familiar, and while no one denies that it is the right of Congress to declare war, and that war cannot be declared without the action of Congress, few would claim that this formal power of the legislative body is of controlling importance. The president's activities in foreign affairs are such as almost to give him the power of war and peace; certainly the effective limitations on his power are political in nature and not constitutional; he would be ill-advised to move faster than the sentiment of the country will allow, but his constitutional disabilities alone will never really prevent him from getting the nation practically into a state of war. We may presume that this would have been disapproved

[1] Speech of Representative Stephens in the House, June 16, 1846. Quoted in Allen Johnson, ed., *Readings in American Constitutional History, 1776-1876* (Boston, 1912), pp. 397-398.

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by the Founding Fathers, and especially by those who belonged to the political school of Madison and Jefferson. Those two gentlemen, indeed, objected in 1793 to Washington's Proclamation of Neutrality on the grounds that the executive had, by its own mere motion, got the country into a state of peace. They were far more exercised in 1798 and 1799 when they thought that John Adams, by his conduct in the X Y Z affair, was about to plunge it into war. Yet when the country did finally go to war it was under the presidency of Madison, and this paper is intended to examine how that staunch Republican regarded the problem of presidential control over war and peace, and how he handled it when it was presented to him.

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The Constitutional Convention of 1787, though not unconcerned with the problem of foreign affairs, gave little attention to the conduct of foreign policy. In the minds of the delegates, policy seemed to boil down to three matters: declarations of war, treaties of peace after war, and other treaties. Mr. Butler was bold enough to declare his belief that the president alone should have power to make war, and Charles Pinckney thought that the Senate might do it, for the congress as a whole would be "too slow". "War", declared Oliver Ellsworth, "is a simple and overt declaration", unattended with "intricate & secret negociations".[2] The republicanism of various members prevailed; the phrase "to make war" was altered so as to read "to declare war", and this function was entrusted to Congress, it being assumed that the president would then have the right and power to repel invasion without a formal declaration of hostilities.

Discussion concerning the making of treaties centered mainly on the question whether treaties of peace should be easier to conclude than other treaties; it was pointed out by Madison himself that in time of war the executive would gain much power, and might therefore be disposed to prolong a state of

[2] Max Farrand, ed., *The Records of the Federal Convention of 1787* (New Haven, 1911), II, 318-319.

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belligerency.[3] After a considerable amount of debate it was nevertheless decided to lump all treaties together and give the president power to make them with the advice and consent of the Senate, two thirds of the members present concurring. This, together with the presumably unimportant duty of receiving ambassadors and other public ministers in a formal way, was the extent of presidential powers in foreign policy as laid down in the Constitution, and their working may perhaps be exemplified by the primitive spectacle of President Washington paying a solemn visit to the Senate for the purpose of receiving advice regarding a treaty with the Indians which was under negotiation. This procedure failed, and the president took over the making of treaties entirely, reserving to the Senate the function of ratification and consent.

The Fathers thus ignored, perhaps with deliberate intention, the problem of policy as it is related to practice. The president, as the repository of the "executive power", presumably had the duty of carrying on ordinary negotiations, and doing such things as upholding, by argument and exhortation, the rights of the United States under international law and under treaties to which it was a party. No discussion was spent on the fact that the president, in fulfilling these duties, would have to form his own judgments of exactly what the rights of the United States might be in particular instances, and of how energetic his language should be in maintaining them. Above all, no one brought out the fact that the structure of international affairs would itself be influenced and affected by the president's conduct in these matters. The delegates thus took full account of such solemn matters as war and treaties, and rejoiced that they had removed from the executive the power in these affairs possessed by the King of Great Britain; but though they did, by a few remarks, recognize that there would have to be instructions given to negotiators, they do not seem to have realized the fact that informal memoranda might acquire as great significance as the more impressive and formal documents of international relations. The policy of the infant re-

[3] *Ibid.*, pp. 540-541.

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public would assuredly be mild, modest and defensive, and no president who was known to depend upon his legislators for a declaration of war and a confirmation of treaty could, they presumed, throw his weight about in the world to any great effect without the full and previous sanction of public opinion.

The first important lesson in foreign policy came with the "Proclamation of Neutrality" issued by Washington in 1793. This proclamation, which would nowadays be taken as a matter of course, aroused the suspicion and wrath of the Republicans so much that Hamilton thought it necessary to defend it in a series of public papers, to which Madison replied in a series signed with the name Helvetius. Hamilton, of course, took a high view of the prerogative of the executive, and what we may look upon as the first dispute over the "war power" of the president developed out of a most curious chain of events. It was, constitutionally, the duty of the president to receive ambassadors and ministers; consequently it was, without doubt, his duty to refuse to receive those improperly accredited. In deciding whether or not to receive the minister from France, the president had to decide whether the revolutionary government of France was or was not legitimately able to accredit its minister; the president might decide that it was not. Thus he was, in effect, refusing to recognize the government of France, and since the United States had a treaty of alliance with the French government, the president, by thus deciding, had practically by his own executive act committed the country to a course of foreign policy which might have been supposed to be within the scope of legislative debate. Likewise, he might, on the contrary, have received the ambassador and thus brought the treaty into effect. In fact this sort of executive duty, said Hamilton, might authorize the president to "lay the legislature under *an obligation* of declaring war."[4]

Madison naturally attacked such a statement with every argument at his command, but the substance of his case was simple enough. It was that the executive had no right whatever to do

[4] Madison's discussion is in the third number of Helvetius. Gaillard Hunt, ed., *The Writings of James Madison* (New York, 1900-1910), VI, 160-171.

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anything which might interfere with the sole power of the legislature to make up its mind, unhampered by the commitments of the president, upon the subject of peace or war. He demonstrated the lengths to which Hamilton's doctrine might lead the country, and claimed to have overthrown it. "But", he continued, "it is not to be forgotten that these doctrines, though ever so clearly disproved, or ever so weakly defended, remain before the public a striking monument of the principles and views which are entertained and propagated in the community." [5] The seed had been planted, and it had not fallen on stony ground.

Five years later another controversy arose which provided much further instruction for those concerned with presidential powers in foreign policy. This time John Adams approached to the very brink of war with France, and used the X Y Z correspondence to gain the support of public opinion for the raising of an army and the building of a navy. Again Madison was outraged. "The constitution supposes, what the History of all Govts demonstrates," he wrote to Jefferson, "that the Ex. is the branch of power most interested in war, & most prone to it. It has accordingly with studied care, vested the question of war in the Legisl." He went on to point out that Adams' doctrines and Adams' conduct struck at the root of these provisions, and put the power of peace and war in the department of government which the framers of the Constitution most distrusted.

> For if the opinion of the P[resident,] not the facts & proofs themselves are to sway the judgment of Congress, in declaring war, and if the President in the recess of Congr[s] create a foreign mission, app[t] the minister, & negociate a War Treaty, without the possibility of a check even from the Senate, untill the measures present alternatives overruling the freedom of its judgment; if again a Treaty when made obliges the Legis. to declare war contrary to its judgment . . . it is evident that the people are cheated out of the best ingredients in their Gov[t], the safeguards of peace which is the greatest of their blessings.[6]

[5] *Ibid.*, VI, 171.

[6] *Ibid.*, pp. 312-313.

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By way of remedy for this shocking state of affairs Madison could only suggest that the legislature adopt a resolution of protest, and go home to consult its constituents immediately on the subject of peace or war.

Adams, however, was capable not only of going to the brink of war but also of returning from it. If the Republicans were right, and the country stood for peace in 1798 save for the irresponsible conduct of the president, then probably the contrary was true, and the country was for war in 1799, from which it was rescued by sheer presidential initiative. Adams wrecked his own party by undertaking the additional negotiation which led to a settlement with France, and so went ingloriously out of office, to be admired by posterity because he set his executive prerogatives against the popular clamor for war. We have no evidence that Madison relaxed his suspicion and dislike of Adams, but at least we may assume that he had stored up in his memory the lesson of those days, which he thus summarized in a letter to Jefferson:

> The management of foreign relations appears to be the most susceptible of abuse of all the trusts committed to a Government, because they can be concealed or disclosed, or disclosed in such parts and at such times as will best suit particular views; and because the body of the people are less capable of judging, and are more under the influence of prejudices, on that branch of their affairs, than of any other. Perhaps it is a universal truth that the loss of liberty at home is to be charged to provisions against danger, real or pretended, from abroad.[7]

This was Madison in opposition. His education in foreign affairs, however, was about to take a new turn, and he was to see how all these matters looked from the vantage point of the Secretary of State's office. No sooner had he taken over his duties in 1801 than some leftovers from the European war which was just coming to a temporary halt claimed his attention. The first was the matter of impressed seamen, and he immediately instructed Rufus King to let the British govern-

[7] *Letters and other Writings of James Madison* (ed. 1865, Philadelphia), II, 140-141.

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ment know that unless some remedy was furnished by them "the policy of this Country, can scarcely fail to take some shape more remedial than that hitherto given to it."[8] He even went so far as to intimate that the cordiality of the United States could not be expected to be either entire or lasting unless something handsome should be done by the British. This was, no doubt, a fairly safe remark, but it is to be noted that public opinion was not, at that date, greatly exercised about impressments, and perhaps would not have become so without the later propaganda of the administration. A second disturbance was created by rumors concerning the independence of Santo Domingo, and the cession of Louisiana to France, both of which Madison knew would greatly concern the United States. He informed Wilson Nicholas of both these reports, but told him that the information "need not be of promiscuous use".[9] We need not be so unkind as to assume that Madison intended to disclose the news "in such parts and at such times as will best suit particular views", but it is plain that he realized the desirability of concealing rumors even of things which vitally affected the country.

As the one best example of Madison's secretarial experience in foreign affairs, however, we may select the instructions given to Monroe at the time of the Louisiana Purchase. The administration had decided that the opening of the Mississippi was a vital interest of the United States, and while this may have been true it was by no means universally believed. New England, as time was to show, would probably not have cared to waste many lives in fighting for this object, any more than Southerners would have gladly given their blood and treasure for the fisheries. Jefferson's government nevertheless firmly made up its mind, and Madison instructed Monroe to proceed to England if his conversations in Paris should be unsatisfactory. "If France", he wrote his envoy, "should avow or evince a determination to deny to the United States the free navigation of the Mississippi, your consultations with Great

[8] Madison, *Writings* (ed. Hunt), VI, 432.

[9] *Ibid.*, p. 427.

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Britain may be held on the ground that war is inevitable." [10] This instruction was given under the supposition that Britain and France were at peace, as indeed they were at the moment. It is plain that if the French negotiations were unsuccessful, Jefferson intended to confront Congress with a *fait accompli*. He would have created a foreign mission (to England), appointed the minister, negotiated a war treaty, and carried on policy until Congress would scarcely have been able to retreat. This was exactly what Madison had denounced John Adams for doing.

We need not labor these points further, or choose other examples from the second Jeffersonian administration. It has been made plain that Madison was well aware of the implications of national policy as formed by the president. He had condemned John Adams' conduct of foreign affairs because it tended to lead to war; he had then been a member of an administration which had been prevented from following the same course, against the same enemy, only by the fortunate conclusion of its preliminary negotiations in Paris. He knew what it meant to formulate policy, and was perfectly well aware of the respective rights and duties of the president and of Congress. His own administration began on March 4, 1809, in a most difficult and puzzling situation. The embargo had been repealed after its disastrous trial, the English showed no signs of relenting from the policies of their Orders in Council, while the decrees of Napoleon still further cramped the commerce and violated the "rights" of American merchants. What should he do, and above all how should he do it?

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Of course the personality and predilections of a president have much to do with his habits of action. Madison, as everyone knows, was a mild and peaceable man, cautious, scholarly, and wholly removed from ideas of blood and slaughter. He had not fought in the Revolution because his health had not been sound enough. He hated war, as all sensible men did,

[10] Madison, *Writings* (ed. Hunt), VII, 41.

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and he had no trace of romantic yearnings for military glory. He was no firebrand like Polk, nor was he given to seeking the Lord in prayer like McKinley. He was perhaps as stubborn as Wilson, and far more experienced in policy, but he had no benefit of nineteenth-century exploits in *Realpolitik,* nor did he have the task of handling the United States as a "great" Power. He did not know Europe, and this was perhaps his greatest weakness, for he constantly underrated the forces which were at work on that troubled continent, and he had no realization whatever that the Napoleonic conflicts were of quite a different order from the limited and respectable wars of the eighteenth century. He was an enlightened man of the Age of Reason, and his notions of world affairs were perhaps closer to those of Joseph II or Viscount Bolingbroke than they were to those of Napoleon or George Canning.

Madison was, furthermore, a man who had made up his mind about the proper functions of government. He had observed that society was broken up into a great number of opposing factions and interests: creditors and debtors, merchants and manufacturers, farmers, fishermen, religious enthusiasts, democrats, royalists, and so on. Under such circumstances no representative assembly could meet, deliberate in the clear light of Reason, and arrive at unanimous conclusions equally satisfactory to all. The great desideratum in government, he had declared, was to extend the area over which it functioned so as to take in as many as possible of these various and conflicting interests. The sovereign must be so constituted as to be neutral among them, preserving a balance so that no one faction should become dominant over the others. Were there enough of these interests and were they given adequate representation in the government, they would in fact cancel each other out by their mutual conflict, and the sovereign would remain a sort of umpire and policeman, maintaining the rules of the game, but giving special advantage to none of the players. The "policy" of the government would thus be the resultant of the clashing forces within the society which was governed. It would under such conditions rarely be dramatic or adventurous,

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but it would be sound, and above all it would rest solidly upon the consent of the members of the society. Madison had believed that the Constitution came reasonably near to setting up a system which would function in this way. He had denounced Hamilton, because he had felt that Hamilton had ruled as the head of a selfish faction which had gained dominance, and his attitude toward the foreign policy of the Federalist governments had been the same as toward their domestic conduct.

Thus no president before or since has been more dedicated to the notion that policy should rise from the people upward through the legislature and executive, refined always by this process, until it was put into effect by the "sovereign" government. This policy would not be belligerent; indeed it was one of the glories of the republican form of government that it could never be tempted into adventures by irresponsible rulers. Wars, after all, were made by princes and were repugnant to peoples, and one might depend upon any war fought by the Republic being thoroughly justified by a real necessity for defense of cherished rights and liberties.

The problem of conducting policy in a "democratic" government, however, is by no means as simple as Madison and his associates at first believed. It was once observed to Lord Salisbury that the attitude of the British government was rendered capricious and undependable by the uncontrolled vagaries of public opinion, and this even though the British people had certain ancient notions concerning policy on which any government could depend. The infant American Republic was not supposed to have any "policy". It had rights, and these could be distinguished from policy. The people would stand firmly upon the "rights" of themselves and their nation, and it was the business of the president to see that these rights were respected. We have already observed, however, that the government had scarcely commenced operations before the executive had found itself pushed into announcing a "policy"; and the tendency of executive action to get the nation actually into war had been made manifest particularly in the administrations of the bellicose Adams and the presumably pacific Jefferson. The latter,

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in particular, was prepared to fight for what could only be called a "policy" and not a "right". It remained to be seen whether the most ardent of presidents for a limited and neutral sovereignty, and the mildest of men, could live up to his own high republican standards in his conduct of affairs.

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The answer is that he could, after a fashion, and did, but that the experiment, though a very interesting demonstration of some principles of government, was a failure from every point of view. Madison was very active in diplomacy. Strenuously he upheld the "rights" of the United States, and in the two cases of impressed seamen and the Rule of 1756 he went to great trouble to investigate with scholarly precision the exact status of these issues in international law, and finally to prove at great length the soundness of the American position.[11] He rested his conduct squarely on the points of law which he had thus demonstrated, and it is important to realize that he felt no great need of congressional or even of public support in doing so. This was a part of the business of the executive: to ascertain and maintain the structure of American rights abroad.

But Madison scarcely realized that this in itself constituted a "policy", in the modern sense. To expect that warring nations would respect American rights merely because they were rights was utopian; on the other hand, to uphold them by force of arms was constitutionally beyond the power of the executive. Nowadays everyone is aware that in a representative government there can be only two solutions for the sort of problem which soon confronted him; one is to tone down policy until it fits the temper of public opinion, the other is to tone up pub-

[11] These arguments were, to be sure, worked out while Madison was Secretary of State. That concerning impressments is found in his instructions to Monroe of January 5, 1804, and Tench Coxe declared that its development was wholly new to the best lawyers in Philadelphia. See Abbot Smith, *James Madison: Builder* (New York, 1937), pp. 251, 253-254. On the Rule of 1756 Madison wrote a heavy pamphlet in 1805, entitled: *An Examination of the British Doctrine, Which Subjects to Capture a Neutral Trade, Not Open in Time of Peace.*

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lic opinion until it will give whatever support is necessary to policy. A wise government combines these two expedients; it is the odd feature of Madison's administration that he avoided both.

Historians have had no trouble in agreeing upon their estimate of Madison's conduct. The two principal authorities on the period, Henry Adams and Admiral Mahan, both denounce him for weakness and ineffectiveness, and practically everyone who has written before or since those two masters presents the same opinion. Channing thought that it was only through the influence of Monroe that Madison was ever brought to the point of calling for war, and for years it was generally believed that the timid and inconsequential little man had to promise to fight England in order to get himself reëlected to the presidency in 1812. No one, so far as I know, has ever given Madison credit for an attempt to conduct policy strictly according to the letter and spirit of the Constitution, yet this is really what he tried to do. He had actually made up his own mind for war before he entered office in 1809; throughout his presidency he was, saving the great differences in temperament, as bellicose as John Adams in his personal convictions, yet he flatly refused to hector and dragoon the reluctant country after him into war. He kept to the principles which he had laid down in the 1790's, and the fact that this produced what was indubitably a weak and unsuccessful course of action does not deprive it of interest.

Two months before he entered the White House, Madison had recorded his private beliefs about the future course of public affairs. He informed William Pinkney in London that it would be his intention to call a special session of Congress in May, "with an understanding that War will then be the proper course, if no immediate change abroad shall render it unnecessary." To George Joy, a Republican-minded American merchant resident in Europe with whom Madison kept up a regular correspondence, he wrote: "whether the Embargo or War be the greater Evil may become a Question; but whether a submission to be taxed by and trade under Licences from a

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foreign Government will never be a Question."[12] Now this was, of course, exactly the kind of expression of policy which was supposed to be left up to Congress, and not decided by the executive. Time was to show that Congress would submit to these conditions which the President considered so intolerable as to put submission beyond question. The interesting point, however, is that Madison kept his opinions to his private correspondence, and when the time came for Congress to act he exerted not the slightest influence to determine the legislators' action.

As it turned out the ultimate question could be postponed for a time, for David Erskine arrived from England with what purported to be a settlement of all outstanding differences, and Madison congratulated himself and the nation upon this unexpected deliverance. The joy was short-lived; by October 1809, Erskine had been disavowed by Canning, and a new minister sent to restore the former situation. After brief negotiations, Madison smartly sent this new envoy about his business, and published the facts for all to read. Now is the point at which Madison should, if he had followed the example of Adams and the later conduct of Polk, have given a strong lead toward war. With no more justification Adams had whipped the country into a state of belligerent enthusiasm; Polk would actually start to fight. It was not beyond the power of the president to authorize acts which would confront the Congress with "alternatives overruling the freedom of its judgment"; certainly it was not beyond his power to recommend a declaration of war. What he actually did was to exhibit for the first time an executive conduct which was almost precisely that which the Constitution contemplated. Furnishing Congress with all necessary papers, he informed them of the state of the

[12] Madison to William Pinkney, January 3, 1809. *Writings* (ed. Hunt), VIII, 42. Madison's words written to Joy are not found in any letter of Madison's which survives, but were quoted back to the Secretary by Joy in a letter to Madison of September 17, 1808, found in the Library of Congress, Madison MSS, XXXV, 13 and 14. See also some remarks upon Madison's attitude by his personal secretary, Edward Coles, communicated to W. C. Rives in 1856 and printed in *William and Mary College Quarterly*, second series, VII (1927), pp. 162-165.

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harbor fortifications, the condition of the navy, the equipment of the militia, and the state of the treasury. He then gave the following indication of policy:

> In the state which has been presented of our affairs with the great parties to a disastrous and protracted war, carried on in a mode equally injurious and unjust to the United States as a neutral nation, the wisdom of the National Legislature will be again summoned to the important decision on the alternatives before them. That these will be met in a spirit worthy the councils of a nation conscious both of its rectitude and of its rights, and careful as well of its honor as of its peace, I have an entire confidence; and that the result will be stamped by a unanimity becoming the occasion, and be supported by every portion of our citizens with a patriotism enlightened and invigorated by experience, ought as little to be doubted.[13]

At about the same time Madison was writing to his friend George Joy:

> Your anxiety that our Country may be kept out of the vortex of war, is honorable to your judgment as a Patriot, & to your feelings as a man. . . . But the question may be decided for us, by actual hostilities ag^st^ us or by proceedings leaving no choice but between absolute disgrace & resistance by force. May not also, manifestations of patience under injuries & indignities be carried so far as to invite this very dilemma?[14]

It seems plain that Madison thought the only recourse was to war, and not that he was as profoundly pacifistic as he has generally been painted. Everything else had been exhausted; economic sanctions had failed. He had played the game of international politics according to the rules, and had now reached the point where he must either bring up his armies and navies, or else retire in discomfiture. Yet the only suggestions which he permitted himself to make to Congress were those quoted above, which constituted no more than the mildest of exhortations. It could hardly be claimed that he had involved

[13] *Writings* (ed. Hunt), VIII, 83.

[14] To Joy, January 17, 1810, *ibid.*, p. 86.

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Congress in "alternatives overruling the freedom of its judgment"; at least Congress itself did not think so, for it fussed and fumed and debated in what Madison described as an "unhinged state". Eventually it passed Macon's Bill Number Two, which in effect was a complete surrender to England since trade was opened with both belligerents.

The next episode was Madison's acceptance of the promise of Napoleon to repeal his decrees of Berlin and Milan. This promise was contained in a letter from the foreign minister Cadore to General Armstrong dated August 5, 1810, informing the representative of the United States that the decrees would cease to operate after November 1. As a result Madison, on November 2, proclaimed the stoppage of trade with England, to take place on February 1, 1811, according to the provisions of Macon's Bill Number Two. There were so many objections to a belief in the sincerity of Napoleon's promise, so many shortcomings in the form in which it was couched, so much opportunity for diplomatic advantage to be gained, and above all so many good reasons for waiting a while until some of these points were cleared up, that it is hard to see why the president acted as quickly as he did.[15] It is certain that he was disgusted with the spineless policy of Macon's Bill, and it is plain that he wished to seize the first opportunity to start the wheels of policy grinding again. He expected this act of his to lead to war. We should, he thought, have a strong position against England in the eyes of the world if she did not moderate her Orders in Council, and he wrote Jefferson: "I do not believe that Cong[s] will be disposed, or permitted by the Nation, to a tame submission; the less so as it would be not only perfidious to the other belligerent, but irreconcilable with an honorable neutrality." It is curious to observe how this mild and scholarly little man again and again led his country to the verge of open war, but

[15] The story is best told by Henry Adams in volume V of his *History of the United States* . . . (New York, 1889-1891). Adams did not know of a letter which Armstrong had written to Madison on the very day of Cadore's notification, and which suggested various reasons for delay. Madison did not, to be sure, receive Armstrong's letter in time to influence his decision. See Smith, *James Madison*, pp. 289-291.

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having got that far, drew aside and refused to make the final step inevitable.

Once more Congress failed to agree on any decisive action, and it was only by a despotic exercise of parliamentary tactics that Madison could get the stoppage of British trade confirmed. Such a procedure was hardly in the best republican tradition, though Jefferson had known how to use it, but Madison might claim at least that he had a right to insist upon the fulfilment of Macon's Bill Number Two, which called for this stoppage. The fact was, of course, that he was getting irretrievably mixed up in the many fine distinctions which became necessary when one tried to keep executive and congressional functions in foreign affairs scrupulously separated into two compartments. Either he would have to cut his own policy to fit the indecision of Congress, or he would have to exert a far more decisive leadership over public opinion than he had yet attempted.

The end of the story, so far as it concerns this paper, may be briefly told. Madison, though content to wait for a while to make perfectly sure that England would not repeal her decrees, seems to have been thoroughly and finally convinced of this by July 1811, when Augustus Foster arrived from that country. His private judgment, held ever since 1808 or 1809, that war was the only honorable and possible course, was once again confirmed. As everyone nowadays knows, however, it was not Madison, nor even Monroe, who brought the country into war, but rather the new influences from the West which appeared in Congress after the elections of 1810. The "War Hawks" were no more interested in a war over maritime affairs than was any New England Federalist, but they had their own reasons for wishing to fight England and conquer Canada. At last Madison perceived that for which he had waited so long. He summoned Congress for November instead of December, and greeted them on the 4th with an uncommonly decisive message recommending immediate military preparations. The War Hawks fell to, and though they showed a characteristic disinclination to impose taxes, they were loud in threatening the

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whole western hemisphere in general with American armed might. Madison's problems were by no means over, for the Senate could not be brought to any speedy or effective action for military preparedness, and the conduct of France gave as many reasons for war as the conduct of England. It may well be that Madison, during this period, required moral support from Monroe to hold him to his resolution. He made a feeble attempt at propaganda by publishing the innocuous letters of the spy, John Henry, and he had the help of Democratic newspapers. Fortified by the loud braggadocio of the War Hawks, and being finally informed by a committee from the House that it was prepared to vote for a declaration of war, he sent in his crucial message on June 1. It took seventeen days of debate for Congress to pass the act declaring hostilities.

The failure of this wholly constitutional, republican and pacific method of handling foreign policy is evident. It diminished the prestige of the United States, because for years the country permitted itself, upon its own showing, to be pushed around by England and France when a more temperate and feasible set of pretensions might have been maintained without great trouble and no doubt with considerable economic profit. It was inherently silly to think that the executive in the fulfilment of his constitutional duties could uphold "rights" under international law when the legislature was not particularly interested in those rights. Such conduct diminished the reputation of Madison personally and of the presidency as an office, for despite all the tenets of pristine republicanism the country wanted then, and has always wanted since, to follow a strong leader in times of crisis. Not until another Democratic President exhibited almost dictatorial habits and powers did the position recover its reputation. But above all, Madison's conduct had the ultimate unhappy result of involving the country in war when there was no united enthusiasm for such an adventure. Actually the congressional majority led by the War Hawks was but little more representative of national opinion than was Madison himself. The President went to war for his reasons, the War Hawks for theirs, but large sections of

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the public were never reconciled to the decision on either grounds. Hence the struggle itself was inglorious, and the country only escaped disastrous consequences by sheer good luck.

Finally, we may observe that Madison's experiment was a failure even from his own point of view. He may in strictness have managed so that Congress was quite free to exercise its own judgment on the question of peace or war, but in no sense which has any meaning did he escape from the enunciation and pursuit of a national policy. His stand on the issue of neutral rights committed the country if not the Congress; he could not evade the facts of government and statecraft. The people recognized this, ironically enough, by their derisive references to "Madison's War". The conduct of national policy in a time of crisis is perhaps the most difficult problem presented to democratic governments, but its difficulty cannot be evaded by a separation of powers and duties between the executive and legislative branches. The nation must move as a unit; public opinion, legislative and executive must mutually guide and urge and prod and restrain one another, and the executive must harmonize by the most delicate artistry its foreign negotiations with its domestic position. No president has ever again failed as Madison failed, because no president has ever again tried the same hopeless method.

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INTERVENTION UNDER THE MONROE DOCTRINE: THE OLNEY COROLLARY

THE interpretation and application of the Monroe Doctrine which underlay the famous American intervention of 1895 and 1896 in the Anglo-Venezuelan boundary dispute constitute perhaps the most forcible gloss yet made on that Doctrine.[1] The principles and policy of this interposition, which were almost entirely the work of Richard Olney, secretary of state from 1895 to 1897, are now apparently repudiated by the Department of State.[2] Olney's Venzuelan policy, nevertheless, has of late been widely studied, and the resulting analyses have tended toward a misleading rigidity.[3] The picturesque diplomacy of 1895 has almost uniformly obscured the significant negotiations of 1896. The common assumption that Olney was motivated by animus against England and sympathy for Venezuela has distorted our view of the essential nature of his action. This distortion seems to have arisen largely from lack of attention to the later stages of the dispute, and

[1] "American" is used as meaning "of the United States".

[2] Some critics, notably A. B. Hart, *The Monroe Doctrine, an Interpretation* (London, 1916), pp. 194-99, have thought to distinguish between Olney's and Cleveland's policies. This point will be discussed below.

[3] This subject has been best treated by Dexter Perkins, *The Monroe Doctrine, 1867-1907* (Baltimore, 1937), pp. 40-60, 136-252, and by Charles C. Tansill, *The Foreign Policy of Thomas F. Bayard, 1885-1897* (New York, 1940), pp. 618-781. Most useful of the many other treatments are Henry James, *Richard Olney and His Public Service* (Boston and New York, 1923), pp. 96-142, 221-53; Alfred L. P. Dennis, *Adventures in American Diplomacy* (New York, 1928), pp. 17-62; Theodore C. Smith, "Secretary Olney's Real Credit in the Venezuelan Affair", *Proceedings of the Massachusetts Historical Society*, LXV (1940), pp. 112-47; Allan Nevins, *Grover Cleveland, a Study in Courage* (New York, 1934), pp. 628-48; and Alfred Vagts, *Deutschland und die Vereinigten Staaten in der Weltpolitik* (New York, 1935), I, 510-16 and *passim*. Only Smith and Tansill treat the Anglo-American negotiations of 1896 in any detail, and all of these authors virtually ignore the negotiations with Venezuela.

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from the unavailability of Venezuelan sources. The Venezuelan archives, it is true, are still closed to students. But important official Venezuelan documents have recently appeared among the papers of William Lindsay Scruggs, supplementing and illuminating the great Bayard and Olney Collections in the Library of Congress. Information from these sources, together with that from little-used printed Venezuelan works, seems to make possible a fresh interpretation of Olney's policy.[4]

The principal facts of the long controversy over the boundary between British Guiana and Venezuela are well known. It is sufficient to remark that by the time Olney became secretary of state in June 1895 the chief points in argument between the disputants were substantially as follows. Both parties expressed themselves anxious to end their dispute; but both claimed title to overlapping tracts of wilderness between the Orinoco and Essequibo Rivers, sparsely settled by British gold miners and a few Venezuelan concessionaires. As a solution Venezuela offered unrestricted arbitration of all territorial claims in this region, many of which were extravagant. Great Britain, while agreeing to the principle of arbitration, was determined to withhold from judgment the areas which, however recent or flimsy their title, had been settled by British colonists. Since neither government would retreat from its position, diplomatic relations, suspended since 1887, remained so.

Toward this dispute, despite its turn for the worse in 1887, and despite continuous Venezuelan importunity for vigorous assistance, the United States until 1895 pursued a most cautious and circumspect course, consisting merely of expressions of concern, tenders of good offices, and intimations of a willingness to act as arbiter. This conservative policy was last and explicitly stated on May 25, 1895, in a note, the importance of

[4] The Scruggs MSS were generously loaned to the author by Mr. Walter M. Robinson. The principal printed Venezuelan sources, hitherto unused in this connection, are the *Gaceta Oficial* and *Libros Amarillos*. William Lindsay Scruggs, of Atlanta, Georgia, was American minister to Colombia and Venezuela at various times from 1873 to 1893. Resigning before his recall, he was appointed special agent and legal adviser of the Venezuelan government, charged with the settlement of the Anglo-Venezuelan dispute.

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which has been overlooked.[5] Venezuela was clearly apprised by the Department of State of the only terms on which American participation in the dispute would take place. She was directed to restore diplomatic relations with Great Britain. After that was done, the United States would exert pressure on the British to submit the entire dispute to an arbitration arranged, not as subsequently occurred between England and the United States, but by direct negotiation between England and Venezuela. No commitment, it will be noticed, was made under the Monroe Doctrine.[6] No innovation in procedure, indeed, was contemplated by the authors of the note,[7] and one may surmise that this temperate plan would have failed in 1895, as similar ones had since the breach of Anglo-Venezuelan relations eight years before. At all events the Venezuelan government in great chagrin at first opposed the plan,[8] and later accepted it only reluctantly and too late.[9] Cleveland apparently put little faith in the plan.[10] Olney, most important of all, abandoned it.

The advent of Olney as secretary of state on June 5, 1895, in fact, signalizes a new American policy, which, although possibly reckless, resulted in the successful settlement of the dispute.[11] Three principal stages in the development of this

[5] *Papers Relating to the Foreign Relations of the United States* (Washington, 1862-19—), *1895*, II, 1485-86. See also Andrade (minister of Venezuela to the United States) to Scruggs, confidential, June 10, 1895, Scruggs MSS.

[6] The Monroe Doctrine had not been mentioned by name up to this time in the official American correspondence relating to the dispute. See Smith, *loc. cit.*, p. 116.

[7] See Matilda Gresham, *Life of Walter Quintin Gresham* (Chicago, 1919), II, 794-95. See also James, *op. cit.*, p. 103, and Tansill, *op. cit.*, p. 695.

[8] Rojas (minister of foreign affairs of Venezuela) to Scruggs, March 11, 1895; and Andrade to Scruggs, confidential, June 10, 1895, Scruggs MSS. See also *Foreign Relations, 1895*, II, 1482-83.

[9] Andrade to Scruggs, confidential, August 3, 1895; and Scruggs to Andrade, August 7, 1895, Scruggs MSS. See also *Foreign Relations, 1895*, II, 1486-87.

[10] Cleveland to Olney, July 7, 1895, Olney MSS.

[11] Olney's critics almost uniformly censure his belligerent tone. See Perkins, *op. cit.*, pp. 192 *et seq.*, and Tansill, *op. cit.*, pp. 726 *et seq.*, for example. A more temperate view is that in Smith, *loc. cit.*

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policy will be discussed in the following pages: I. Olney's famous instruction of July 20, 1895, expounding American rights under the Monroe Doctrine, and demanding of England arbitration of the dispute; II. the special message to Congress of December 17, 1895, substituting for the principle of arbitration an American commission of investigation; and III. the final negotiations between the United States and Great Britain, forsaking the commission for a compromise treaty of arbitration, signed by the United States and Britain, November 12, 1896, and ultimately ratified by the Venezuelan Senate, March 30, 1897.

I

Soon after he became secretary, Olney completed the notable instruction, despatched on July 20 for the attention of the British foreign secretary, Lord Salisbury. Few documents in American diplomacy have been more carefully scrutinized by historians, and I shall treat here only the sections of it which are germane to the development of Olney's corollary. After presenting unchallengeably, he believed, an account of the status of the dispute in 1895, Olney explained that the Monroe Doctrine was a valid part of American public law, which entitled the United States to consider as an injury to itself any European interference with the political destinies of a Latin American state. This being so, the United States was empowered of necessity to discover whether such interference was taking place. Because direct negotiations had failed to disclose this point, and because the disparity in size of the disputants made a decision by arms unthinkable, Olney insisted that the only settlement which could satisfy the rights of all three parties was to submit the entire dispute to some comprehensive form of arbitration. And in what can hardly be described as other than an ultimatum, he called on Great Britain for a decision as to whether or not she would agree to his demand.[12]

[12] The instruction is conveniently printed in *Foreign Relations, 1895*, I, 545-62. For discussion of its character as an ultimatum, see James, *op. cit.*, p. 109; Perkins, *op. cit.*, p. 167; and Tansill, *op. cit.*, p. 703.

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Reduced thus to its essentials, and considered in the light of subsequent events, Olney's intervention assumes a character which has been commonly overlooked. He did not intend to champion Venezuela, but rather to vindicate the Monroe Doctrine, then a unilateral policy, by an *impartial* intervention. That is to say, despite any overtones of sympathy for Venezuela apparent in his note of July 20, his categorical assertion of impartiality in that note must be accepted, I think, at face value.[13] My opinion on this point seems to be supported by a second fact, seldom noted, that his treatment of Great Britain, rigorous as it was, was no more summary than his handling of Venezuela.

Venezuela had thrown her case for the most part on American mercy;[14] but she obviously felt, and the State Department up to June 1895 concurred in her feeling, that she retained some independence of action, to the extent at least of being consulted about the procedure of settlement, and the possibility of vetoing it. In this spirit, immediately before Olney came to office, she had been explicitly informed as to the circumstances under which the United States would intervene.[15] Yet with the knowledge of only a handful of persons, none of them a member of the Venezuelan government, Olney fundamentally altered the nature of the projected intervention.[16] The drastic note of July 20 was not communicated to Venezuela, nor for half a year did Olney consult her about settlement of the dispute.[17] He neither pressed the British to resume relations, as had been stipulated by his predecessor, nor awaited notice of Venezuela's willingness to do so.[18] Most significantly perhaps,

[13] *Foreign Relations, 1895*, I, 560.

[14] See, for example, Tansill, *op. cit.*, p. 661.

[15] See *supra*, note 5.

[16] Nevins, *Grover Cleveland*, p. 634; Nevins, ed., *Letters of Grover Cleveland* (Boston and New York, 1933), pp. 411-12; Alvey A. Adee to Olney, September 3, 1895, Olney MSS.

[17] Scruggs's first knowledge of the contents of the note of July 20 was from the press, December 19, 1895, Scruggs MSS.

[18] Venezuela's qualified agreement to restore direct relations with Great Britain did not reach the Department of State until August 10, 1895. *Foreign*

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and unauthorized by Venezuela, he offered in the note to concede to Salisbury a serious modification of unrestricted arbitration, as the Venezuelan government understood the phrase. Olney suggested that the question, whether prescription as between sovereign states exists, be itself one of the subjects of arbitration. Since this suggestion was ultimately adopted, and since a tribunal would certainly affirm the doctrine of prescription,[19] Olney's unauthorized concession in effect surrendered the only point which Venezuela had consistently refused to yield: namely, that British settlers could not acquire prescriptive title to any area which by *historical* evidence was later shown to belong to Venezuela.[20] These facts are strong evidence that Olney proposed to give Venezuela no special consideration, and that he intended to exact equally from both disputants a settlement conforming to the Monroe Doctrine.

In order to enforce this view, that neither Latin American susceptibilities nor European aggressions should hamper the policy of the United States, Olney proclaimed impressive sanctions. With regard to Venezuela, although he undoubtedly anticipated no effectual opposition from her, he uttered his well-known words, "Today the United States is practically sovereign on this continent, and its fiat is law upon the subjects to which it confines its interposition."[21] In the case of England, he vigorously implemented Monroe's words, which, in the sections under his scrutiny, read that oppressive European intervention in the western hemisphere will be considered a "manifestation of an unfriendly disposition towards the United States," and that we should find it impossible to "behold such interposition, in any form, with indifference." From these phrases, although they lack precision, Olney drew the following

Relations, 1895, II, 1486-87. Ministers were not exchanged between London and Caracas until March 1897, Scruggs MSS.

[19] See John Bassett Moore, *Principles of American Diplomacy* (New York and London, 1918), p. 251.

[20] See Scruggs, *British Aggressions in Venezuela, or the Monroe Doctrine on Trial* (Atlanta, 1894), and *Foreign Relations, 1895*, II, 1490-91.

[21] The question of Venezuelan acquiescence in Olney's policy does not seem to have seriously concerned him until January 1896. See *infra*, note 86.

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concrete deduction: "There is, then, a doctrine of American public law, well founded in principle and abundantly sanctioned by precedent, which entitles and *requires the United States to treat as an injury to itself* the forcible assumption by an European power of political control over an American state." These pronouncements are scattered through his note of July 20, and he nowhere formulates his conclusions succinctly.[22] One may, however, state his rather legalistic policy, as it had developed at this stage, as follows: Against a European power, infringing the Monroe Doctrine, the United States has a cause of action in addition to, separate from, and superior to that of the South American state immediately injured.

The foregoing analysis makes the first steps of Olney's policy more intelligible than it has been, and seems to dispose of some, at least, of the censure which has been directed at his note of July 20. His most authoritative critic was perhaps Professor John Bassett Moore, who in 1895, without access to all the documents, to be sure, summarized his understanding of Olney's contention as follows:

> . . . we now address Venezuela substantially thus: "You are an American republic, and in your claims against European powers we back you. True, you settled your southern boundary directly, on the basis of the *uti possidetis*, but this principle, though applicable everywhere else in South America, is inapplicable to your Eastern boundary. Even the great doctrine of prescription, recognized by every publicist from the time of Grotius . . . is not applicable to that boundary. Claim what you will and propose arbitration of it, and I will step in and say that it shall be settled in no other way. I know nothing of the merits of the controversy: I am simply backing you. This is according to the Monroe Doctrine." [23]

Professor Moore's words have had great vitality, and on that

[22] *Foreign Relations, 1895*, I, 554, 558, 559. Italics supplied. For a brief discussion of whether the Monroe Doctrine is part of "American public law", see Perkins, *op. cit.*, pp. 178-80. For the point whether Venezuela felt her political control menaced, see *Foreign Relations, 1895*, II, 1490.

[23] Moore to William L. Wilson, December 10, 1895, Cleveland MSS.

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account it may be pardonable to suggest that his criticism is too sweeping.[24] As the evidence cited in this article shows, Olney did not in any accurate sense "back" Venezuela, nor did he deny that the doctrine of prescription was applicable to the boundary dispute, though he was probably doubtful of it. His insistence on arbitration, furthermore, arose not from the fact that Venezuela had proposed it, but because of the disparity in size of the disputants, and the intransigeance, known to him at the time, which both displayed regarding any other form of settlement. The avalanche of ill-considered Latin American claims, lastly, which Professor Moore by inference anticipated as a result of Olney's policy, could hardly have materialized. Olney's note and subsequent state papers, on the point of pressing claims at least, draw careful distinctions. He nowhere stated that he knew "nothing of the merits". He devoted, on the contrary, almost half of his note to a discussion of them, and found ground for a deep suspicion that a violation of the Monroe Doctrine was occurring. On that account he launched an impartial intervention. But, he wrote, "the United States, until the merits are authoritatively ascertained, can take sides with neither [disputant]."

Any appearance of restraint on Olney's part, however, cannot obscure the comprehensiveness of the corollary which he propounded. In the type of case at hand, he wrote, "the United States may legitimately insist upon the merits of the boundary question being determined." As a separate matter, with regard to the particular circumstances of the Anglo-Venezuelan dispute, Olney virtually demanded that the method of determination of the merits should be unrestricted arbitration. In other words, without the authorization of either party in a European-Latin American controversy, the United States may intervene to uphold the Monroe Doctrine, and may dictate the form of settlement.[25]

[24] See the use of Moore's letter in Dennis, *op. cit.*, pp. 33-35; Nevins, *Grover Cleveland*, pp. 642-43; Perkins, *op. cit.*, pp. 187-88; and Tansill, *op. cit.*, pp. 718-20.

[25] Venezuela had frequently intimated her willingness to submit her claims to unrestricted arbitration. But it must be insisted on again here that Venezu-

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Lord Salisbury's reply to Olney, transmitted some four and a half months later, refused unconditional arbitration, and exposed in a general way the implications of Olney's position.[26] Salisbury surmised that Olney had prejudged the dispute; but he accepted for the sake of argument Olney's statement that the United States had formed no opinion as to the final merits of the controversy, and had taken sides with neither disputant. In that case, wrote Salisbury with considerable force, the American government was laying down a sweeping and uncritical rule "that the doctrine of President Monroe confers upon them the right of demanding that when a European power has a frontier difference with a South American community, the European power shall consent to refer that controversy to arbitration." The British government could not accept this construction of the Monroe Doctrine, because it was tantamount to the assertion of a "Protectorate" over Latin America. To insist that all disputes between Europe and the South American states must be arbitrated, Salisbury concluded, "would have imposed upon the United States the duty of answering for the conduct of these states, and consequently the responsibility of controlling it," both of which obligations Olney expressly disclaimed. Declining to recognize, therefore, any American right to compel arbitration of the Venezuelan dispute, Salisbury, in addition, denied that the Monroe Doctrine was international law, and refused to recognize the *locus standi* of the United States in the Anglo-Venezuelan controversy.[27] Olney's initial effort to vindicate the Monroe Doctrine thus ended in defeat.

II

Olney now turned from arbitration as a means of settling disputes under the Monroe Doctrine to an utterly new method,

ela's attitude, though sometimes helpful, was actually irrelevant. See Tansill, *op. cit.*, p. 661, and *infra*, notes 44 and 86.

[26] The reply was two notes, *Foreign Relations, 1895*, I, 563-76.

[27] The similarity of Salisbury's phrasing, *Foreign Relations, 1895*, I, 565, to that of John Bassett Moore, particularly in the New York *Evening Post*, May 4, 1895, is striking. See an excerpt printed in Tansill, *op. cit.*, p. 697, from the *Evening Post*.

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the origin and implications of which have been little studied. Taking Congress partially into his confidence, he obtained authorization to institute a unilateral American commission of investigation. One of the most persuasive weapons available to American diplomats to coerce foreign chancelleries used to be the threat of relinquishing a matter of foreign policy to Congress. Cleveland had resorted several times to this expedient, and Olney in his note of July 20 had threatened, in case the British refused arbitration, "to lay the whole subject [of the Venezuelan controversy] before Congress."[28] To submit the "whole subject" of a diplomatic affair to the legislature generally signifies the bankruptcy of executive power in a particular instance, and invites the legislators to dictate further procedure.[29] It is a grave measure. Surprisingly, therefore, at least as late as December 3, 1895, President Cleveland had not decided, if Salisbury's reply were hostile, how exactly to dispose of this serious matter before Congress; that is, whether he should communicate the correspondence alone or with an accompanying message. Leaving this question to Olney's decision, the President departed on a hunting trip, which lasted from December 5 to 15. On December 7, meanwhile, the full text of Salisbury's notes was read to Olney, who, feeling that an executive statement to accompany the correspondence was desirable, began to draw up a special presidential message. On his return to Washington, Cleveland approved Olney's action; and, following closely a series of drafts by his secretary of state, composed his famous special message on the Venezuelan affair.[30] Together with Olney's note of July 20 and Salisbury's reply, the message was hastily delivered to Congress on December 17, 1895.

[28] See Cleveland's four special messages about Samoa, and that confessing failure in Hawaii, in James D. Richardson, *A Compilation of the Messages and Papers of the Presidents, 1789-1902* (New York, 1904), VIII, 800, 804-5, 806-7, 810-11, IX, 460-72.

[29] See Richardson, *op. cit.*, IX, 472, where Cleveland solicits a "legislative plan which may be devised for the solution of the problem."

[30] Five drafts by Olney are preserved in the Olney MSS. The final draft is printed in Dennis, *op. cit.*, pp. 52-56.

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This special message has been of consequence in the later development of the Monroe Doctrine; and since, although delivered by the President, it reflects Olney's work, it is of prime importance for understanding the second phase of Olney's Venezuelan policy. The message contains two critical points: (1) The United States is empowered to insist that a line be laid down between a South American state and a European colony, and to regard a breach of the line as "a willful aggression upon its rights and interests," and (2) the United States may determine the method of locating the line, and may, if other methods fail, decree that it shall be done by a unilateral American commission of investigation. For the support of such a commission, to be appointed by the executive, the President then requested, and was unanimously granted four days later, one hundred thousand dollars. In order to enforce the commission's findings, an impressive, though heavily qualified, sanction was added, which led most persons to believe that the enforcement would, if necessary, extend to war.[31]

With the first point the message dealt at some length. The basis of the proposed American action was held once again to be international law. "The doctrine upon which we stand [ran the message] is strong and sound because its enforcement is important to our peace and safety as a nation . . . if the enforcement of the Monroe Doctrine is something we may justly claim it has its place in the code of international law." This reasoning seems circular and scarcely cogent; but, relying on it, Olney asserted that the Doctrine was "fully applicable to our present conditions," and "directly related to the pending controversy." The United States, therefore, had an undoubted *right* to insist that a line be fixed, and the dispute be settled.[32]

[31] Richardson, *op. cit.*, IX, 655-58. See also Moore, *op. cit.*, p. 249. For the popular reception of the message, see Perkins, *op. cit.*, pp. 192 *et seq.* Samuel F. Bemis, *A Diplomatic History of the United States* (New York, 1936), pp. 418-19, notes how the qualifications in the message in reality allowed ample opportunity for retreat.

[32] In this section of the message Cleveland expands Olney's phraseology, but does not alter his meaning. The use of "right" in the message is unequivocal.

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Of the second point, concerning the means of settlement, strangely little explanation was vouchsafed. The implication of the message is that, since all conventional methods had failed, only a drastic measure would suffice to compose the controversy.

> . . . the dispute has reached such a stage as to make it now incumbent upon the United States to take measures to determine with sufficient certainty for its justification what is the true divisional line between the Republic of Venezuela and British Guiana. . . . In order that such an examination should be prosecuted in a thorough and satisfactory manner I suggest that the Congress make an adequate appropriation for the expenses of a Commission, to be appointed by the Executive, who shall make the necessary investigation and report upon the matter with the least possible delay. When such report is made and accepted it will in my opinion be the duty of the United States to resist by every means in its power as a willful aggression upon its rights and interests the appropriation by Great Britain of any lands or the exercise of governmental jurisdiction over any territory which after investigation we have determined of right belongs to Venezuela.[33]

This suggested commission has apparently neither close precedent nor analogy in American diplomacy.[34] But, if one could grant Olney's premises as to American rights of self-preservation, it has an element of logic. Somewhat similar commissions, at all events, have figured in European history, and have been used only recently by Germany and Japan within their alleged spheres to delimit the boundary between two foreign powers.[35]

The origin of Olney's notion for an American commission is obscure. Except for a remotely similar suggestion in the Washington *Post* of October 6, 1895, the proposal first appears

[33] Richardson, *op. cit.*, IX, 658.

[34] "Agents" sent to Nicaragua, for example, do not seem analogous to a commission of the sort proposed by Olney and Cleveland. See *Foreign Relations, 1894*, Appendix I, pp. 271-73.

[35] Compare the German boundary commission in the Rumanian-Hungarian dispute (1940), and the Japanese commission in the dispute between Thailand and Indo-China (1941).

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in Olney's original draft, dated December 10. Before that day neither Cleveland nor Olney seems to have discussed such a method of settlement. It bears, in fact, all the earmarks of hasty improvisation; and its subsequent history shows that Olney had had insufficient time to foresee important contingencies which occurred in the course of its operation. The paragraphs of the special message, concerning the scope of the powers of the commission, are startlingly vague; and instead of laying "the whole subject" of the Venezuelan matter before Congress, as Olney had intimated would be done, and as Cleveland had done with the Hawaiian affair, only two documents were communicated to the legislature, which was simply requested to support a policy already determined by the executive. One may suspect that the commission plan was designed in part merely to postpone the unexpected crisis threatened by Salisbury's rejection of Olney's July note. The fact that Olney almost immediately after the appointment of the commission reopened direct negotiations with London suggests that the commission was to be less a means for ascertaining American rights than a weapon to induce the British government to reconsider arbitration.[36] The British certainly considered it so.[37] The sweeping qualifications in the closing paragraphs of the message, moreover, and the absence of coördinate naval preparations strongly indicate that neither Cleveland nor Olney seriously contemplated forcible measures to enforce the commission's report.[38] Neither intended the commission to provoke war, or even a war scare.[39]

In addition to being pacific, the commission was meant by its proponents to be impartial. The special message, it is true,

[36] See *infra*, notes 55 and 62.

[37] Smalley to Olney, January 30, 1896, Olney MSS; London *Times*, January 2, 1896.

[38] A careful survey of the manuscript archives of the Navy Department for 1895 revealed no instance of orders to naval vessels to prepare for possible hostilities with England. The South Atlantic Squadron wintered in Montevideo. See also Moore, *op. cit.*, p. 249.

[39] See Richardson, *op. cit.*, IX, 659-60, and Olney to J. W. Foster, December 23, 1895, Olney MSS.

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was indubitably written on the assumption that England was guilty of unwarranted aggression, and Olney was charged once again with "backing" Venezuela.[40] His series of drafts, however, shows that such was not the case. His first draft did not so much as mention the attitude or equities of Venezuela.[41] In a revision of this draft the following significant allusion to Venezuela was inserted:

> Great Britain's present proposition [to withhold certain disputed territory from arbitration] has never been regarded as admissable by Venezuela, & *there is no reason to suppose that it will be so now, though any adjustment of the dispute which Venezuela may deem for her advantage and may enter into of her own free will, will not of course be objected to by the United States. Assuming the attitude of Venezuela to be unchanged*, however, it is now incumbent on the U. S. to immediately proceed to determine for itself what is the true boundary line between the Republic of Venezuela and British Guiana.[42]

This is substantially the phrasing of the final message, except for the important amendment of the last sentence to read, "Assuming, however, that the attitude of Venezuela *will remain* unchanged".

The italicized expressions of apparent solicitude for Venezuela, it will be noticed, are all in the form of provisos and speculations, which could have been verified immediately, had Olney wished; for the Venezuelan government maintained at Washington both a minister and another envoy especially charged with the conduct of the boundary affair. A first question arises, therefore, why Olney, before committing the United States to an utterly new method of solution, had not consulted the Venezuelan representatives. Three reasonable and com-

[40] See, for example, Sidney Low, "The Olney Doctrine and America's New Foreign Policy", *Nineteenth Century*, XL (December 1896), pp. 849-60, esp. pp. 851-52.

[41] Except for an oblique reference to giving "due weight to all legitimate considerations bearing upon the claim of either party."

[42] Olney MSS. Italics supplied.

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plementary answers can be made: (1) Venezuela seemed little likely in December 1895 to object to the type of American intervention,[43] (2) both Olney and Cleveland were in haste to present a report to Congress, and (3) according to the view of both men, Venezuelan acquiescence in American procedure was irrelevant.[44]

Since Venezuelan consent was considered unnecessary, a second question is why Olney thought it necessary to insert the paragraph concerning Venezuela. One motive for doing so was probably expediency, for he was seeking an appropriation from a Congress sympathetic to Venezuela. This is not, however, the whole explanation. Olney's words are actually disingenuous. He says he assumes that Venezuela would not accept Great Britain's proposition, and that the attitude of Venezuela toward this point would "remain unchanged". Yet he had no assurance that such was the case, and there is evidence that Venezuela was at that moment attempting to sell to the British her interest in the disputed area.[45] Equally vulnerable was Olney's offer to accept "any adjustment of the dispute which Venezuela may deem for her own advantage and may enter into of her own free will," because at that very time he was withholding from Congress a possible method of solution of the dispute, to which Venezuela had already agreed.[46]

[43] Although Venezuela later objected to American procedure, in 1895 she was anxious only to avoid direct negotiations with England. See *supra*, notes 8 and 9, and *infra*, note 45. See also clippings and notes, dated January 14, 1896, Scruggs MSS.

[44] Grover Cleveland, *Presidential Problems* (New York, 1904), pp. 256, 278-79.

[45] Congressman C. B. Beach to Olney, December 23, 1895, and W. E. Curtis to Olney, December 24, 1895, Olney MSS. Curtis, an author on Venezuelan subjects and a friend of Olney, had information that both President Guzman Blanco and his successor, President Crespo, had attempted to sell out to the British government. See also Tansill, *op. cit.*, p. 748.

[46] See *supra*, notes 5 and 18. Unaware of Olney's note of July 20, the Venezuelan government tardily agreed, with reservations, to the proposal made to it by the United States on May 25, 1895. The Venezuelan minister was instructed, August 10, that his government had given its "assent to the view held by that Republic [the United States]. . . . In order to give to this

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Taken as a whole these considerations imply that primarily, despite the tone of his language, Olney was not threatening Great Britain nor backing Venezuela, but was pursuing an independent course of action. His concern was to uphold American rights, as he conceived them under the Monroe Doctrine, and he had a flexible view of the opportunities available to the United States to do so. Unable temporarily to effect an agreement by arbitration, therefore, he sought a solution by his unilateral commission of investigation.

The constitution, function and powers of the proposed commission were set forth in the special message only in the most general way, and Cleveland and Olney did nothing further to elucidate them. Vague as these particulars were, they satisfied the Congress. A statute was rushed through both Houses by December 21, authorizing the funds, and imposing no checks whatever on the executive.[47]

The specifications for the commission begged several of the most important questions confronting the two original disputants. Both were apprehensive, in the first place, about its personnel.[48] But the critical issue for the Venezuelan government was the criterion to be used by the commission in locating what the United States considered the true boundary. If the

decision of Venezuela a still more solemn character, you are instructed to transmit a copy of this note, together with an English translation, to the Department of State", *Foreign Relations, 1895*, II, 1486-87. See also Andrade to Scruggs, confidential, August 3, 1895, and Scruggs to Andrade, confidential, August 7, 1895, Scruggs MSS. I find no reply to Venezuela concerning the note quoted above; but the following memorandum was sent from Adee, acting secretary, to Olney, August 19, 1895: "I sent you the Venezuelan reply a few days ago; Senor Pulido's note of July 10 [received August 10] to Senor Andrade, in which Venezuela interposes as conditions to such resumption, (A) that renewed representation shall be simultaneously effected at London and Caracas, and (B) that Great Britain's disposition to submit the dispute to general arbitration without exclusions shall be assured beforehand. I have not sent this reply to Mr. Bayard, preferring to await your directions, nor have I answered Senor Andrade's note of communication for the same reason." Olney MSS.

[47] Richardson, *op. cit.*, IX, 658, and U. S. *Statutes at Large*, XXIX, 1, ch. 1.

[48] Note by Scruggs, January 2, 1896, Scruggs MSS; London *Times*, January 2, 3, 4, 1896.

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principle of historical title obtained, Venezuela stood in a far more favorable position than if, as Olney had hinted, the validity of title acquired by British squatters in the disputed area was arbitrable.[49] The British government, on the other hand, was primarily interested in learning whether the commission was merely to collect facts, or was empowered to draw the actual boundary which it thought just.[50] This was a matter of consequence, since, if a precise boundary were published, showing British encroachment, American political action hostile to Great Britain might automaticaly ensue.

The personnel of the commission was announced January 1, 1896. Its five members, all American, were more acceptable to the Venezuelan government than to the British, but were completely satisfactory to neither.[51] Venezuela hastened, nevertheless, to offer to supply all relevant data to the commission, but earnestly urged that it apply "arguments of legal or historical force, instead of those based upon fortuitous circumstances or upon the fact of local occupation."[52] Despite the anxiety of Venezuela upon this point, the commission never divulged what rule it intended to use for the precise placement of the boundary. Since, however, it was disbanded before specifying an exact line, this problem became academic.

The uncertainty felt by the British, on the other hand, was dispelled adversely to their cause early in January. News reached London, January 3, that the commission was to be master of its own procedure, an ominous report for Great Britain, because one commissioner, Frederic R. Coudert, be-

[49] *Foreign Relations, 1895*, II, 1490.

[50] London *Times*, January 2, 1896.

[51] Note by Scruggs, January 2, 1896, Scruggs MSS. London *Times*, January 3, 4, 1896; Cleveland, *op. cit.*, pp. 272-73. The commissioners were David J. Brewer, Associate Justice of the United States Supreme Court, Richard H. Alvey, Chief Justice of the Court of Appeals of the District of Columbia, Andrew D. White, ex-President of Cornell University, Daniel C. Gilman, President of Johns Hopkins University, and Frederic R. Coudert, a well-known lawyer.

[52] *Foreign Relations, 1895*, II, 1489-90; *El Libro Amarillo de los Estados Unidos de Venezuela* (Caracas, 1897), pp. xvi-xx.

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fore his appointment, had published his conviction that the British had undoubtedly seized territory which was rightfully Venezuelan. Any remaining ambiguity concerning the scope of the commission's powers was removed, finally, by the publication, January 6, of the commissioners' instructions, directing them "to investigate and report upon *the location of the divisional line* between Venezuela and Guiana." [53]

Apprehensive of the commission's powers, and of the unconditional endorsement of them by the American Congress, British diplomacy immediately undertook efforts to internationalize the personnel of the commission, or as an alternative to circumvent it by reviving some form of direct negotiation. During the first stages of this undertaking, British correspondence with the Department of State was carried on largely through unofficial agents—newspapermen and public figures—of whom the most important were Henry Norman and George W. Smalley, American correspondents respectively of the London *Chronicle* and London *Times,* George Earle Buckle, editor of the London *Times,* and Lyon, Baron Playfair, a Liberal peer, whose wife was an American.[54]

At the beginning of January the London *Times* led an informal diplomatic offensive against the American commission as an "irregular tribunal of domestic origin," and an obstacle to the adjustment of the dispute.[55] Soon afterward, in order to explore the possibility of some other method of settlement, the London *Chronicle* sent Norman to the United States as a special "commissioner". Norman evidently learned from Olney that the latter's real desire, despite the establishment of the commission, was for arbitration. Norman then published in the London press suggestions, known beforehand to Olney, as to the best direction for arbitration, and had some success in creating a popular demand for this form of settlement.[56]

[53] London *Times,* January 3 and 6, 1896. Italics supplied.

[54] Olney MSS and Scruggs MSS, *passim;* G. W. Smalley, *Anglo-American Memories* (New York and London, 1911), pp. 75-79.

[55] January 4, 1896.

[56] Note by Scruggs, January 9, 1896, Scruggs MSS; Norman to Olney, January 1, 5, 7, 8, 9, 10, 1896, Olney MSS.

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Cleveland, meanwhile, was reported to favor a renewal of direct Anglo-Venezuelan negotiations.[57] Even Olney, author scarcely a month previously of the commission plan, reopened the subject of arbitration, January 14.[58] This was Olney's first official recession from that plan, and from this time forward both he and the British statesmen showed an increasing disposition to compromise. As a result, less than a month after the organization of the controversial commission, Olney sent Bayard the following important instruction: "As Great Britain desires the controversy should not drift, in which desire the United States heartily concurs, a resort to some form of arbitration which shall cover the real questions involved seems indispensable, since the moment it is agreed upon and the tribunal constituted, the controversy, so far as these two countries is [*sic*] concerned, is at an end." [59]

Although by this time active efforts to conclude a negotiated treaty of arbitration had, in fact, already begun, Olney did not curtail the functions of the commission, nor correct the popular impression that the United States would stand on its findings. The Washington *Post,* January 21, announced that the commission's work had just begun; and the Venezuelan agent, who was not aware of the Anglo-American negotiations, rejoiced that the commission "finally begins to move." [60] Not until November 10, two days before the signature by Olney and Pauncefote of "heads" of an arbitration treaty, did Olney instruct the commissioners to cease trying to establish a precise boundary. Thereafter the commission merely collected facts, until the time of its dissolution, March 1, 1897, when it submitted a voluminous report for the assistance of the arbitral tribunal, without recommending a specific frontier.[61]

[57] London *Times,* January 13, 14, 1896; Cleveland, *op. cit.,* p. 273.

[58] Olney to Bayard, cipher telegram, January 14, 1896, Olney MSS.

[59] Cipher telegram, January 22, 1896, Olney MSS.

[60] Note by Scruggs, January 21, 1896, Scruggs MSS.

[61] *Report and Accompanying Papers of the Commission Appointed by the President of the United States "to investigate and report upon the true divisional line between the Republic of Venezuela and British Guiana"* (Washington, 1896-97).

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During most of its life, therefore, the commission played only a secondary and indirect rôle; but its very existence was a powerful threat and a second string to Olney's diplomatic bow. It was admittedly a cause of apprehension to the British; and Olney, apparently making the most of his advantage, did nothing to relieve their anxiety.[62] The international status of the commission was never clear. The British government ultimately recognized explicitly the standing of the United States in the Anglo-Venezuelan dispute; but it never dealt directly with the commission, preferring to submit its case by means of Blue Books already published in England before being tendered to the American commission.[63] The commission itself had a limited view of its own powers, for it requested the disputants to submit their evidence only as *amici curiae;* and Olney conceded in terms "the right of the British Government to ignore the request of the commission for such references to documents as will enable it to verify the statements of the British Blue Book."[64]

Venezuela, on the other hand, never questioning the right of the United States to intervene, and suppressing its preference for a solution by arbitration to one by an American commission, hastened to coöperate fully with the commission. Even before the Venzuelan government had been requested to assist the commission, it had created a special committee to amass the evidence available in the Venezuelan archives, and had named Scruggs as its "agent or attorney in this special case."[65] Far from temporizing, furthermore, as the British government had, Venezuela made every effort to comply with the "just desire of the Commission" to acquire all the data relative to the boundary dispute. The sole *caveat* in Vene-

[62] Pauncefote to Olney, strictly private and confidential, April 9, 1896, Olney MSS.

[63] See London *Times*, July 18 and 21, 1896.

[64] *Foreign Relations, 1896*, p. 242; *ibid., 1895*, II, 1489.

[65] *Foreign Relations, 1895*, II, 1490-91; *Libro Amarillo, 1896*, pp. xiv-xvi, and *ibid., 1897*, pp. vi *et seq.*, xxvii; notes by Scruggs, January 20 and 21, 1896, Scruggs MSS.

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zuela's otherwise complete concurrence was that the commission should consider primarily "arguments of legal or historical force." [66]

The procedure of the commission embraced both independent investigations by its own members, and the cataloguing of the evidence submitted to it for the most part as blue and yellow books, and as "cases" by the British and Venezuelan governments. The facts and conclusions obtained by the commission were, it must be remembered, originally intended to guide the American executive in the unilateral delimitation of the frontier. Olney soon decided, despite the eager coöperation of Venezuela, that her case was not being forcibly presented. The Venezuelan agent, Mr. Scruggs, clearly did not have Olney's confidence, and the commission too seems to have been dissatisfied with Scruggs's work.[67] Olney, in addition, wished to use the medium of a published "Case for Venezuela" to expound his own views of the merits of the controversy. Hence he felt the need for an intermediary in whom he had faith to assist him in dealing with the Venezuelan government. He found such a person in James J. Storrow, a former classmate and friend at the Harvard Law School, who was in 1896 legal adviser of the Bell Telephone Company in Boston. Storrow had recently written an article on the Venezuelan question, and was persuaded by Olney to visit Caracas in order to examine the documents there, and the work of the Venezuelan committee appointed to assist the American commission.[68]

Having reached Caracas on March 15, 1896, Storrow reported that

> Venezuela needs counsel very badly, but I doubt if either I or any one else could do much for them. Dr. Seijas, president of the [Venezuelan] commission, is a writer on international law,

[66] *Foreign Relations, 1895*, II, 1490.

[67] See letters, *passim*, in the Scruggs MSS, especially those from Severo Mallet-Prevost to Scruggs, and the comments of Scruggs. Mr. Mallet-Prevost was secretary of the commission.

[68] *Libro Amarillo, 1897*, pp. xvii-xx; clippings and notes, July 20, 1896, April 22 and May 9, 1897, Scruggs MSS.

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> has been minister of foreign affairs, has as such carried on much of the controversy with England, and really knows the subject as well as any one. But his ideas as to where the strength of the case lies are entirely wrong, I think (I have already said so, in print); and counsel for Ven. would be compelled to follow his lines.

For this reason Storrow suggested an important change in procedure. "The U. S. commission, however, is not to arbitrate but to inquire, & I think that under the circumstances it will reach the best results if it undergoes the labor of preparing or causing to be prepared its own brief."[69] Olney concurred in Storrow's judgment, and adopted his suggestion. When Storrow left Caracas, March 31, he took with him "as a private matter" information for Olney's use. During April he continued in an unofficial capacity, working toward the preparation of the sort of brief he had described. Olney then prevailed on the Venezuelan government to appoint Storrow as its special counsel to supplement the work of Scruggs before the American commission.[70]

Storrow began immediately to redraft the argument of the Venezuelan commission into a more forcible brief, and during the succeeding months was in constant communication on this subject with both the American commission and Olney, who not only acted as reader and critic for him, but extended to him the facilities of the Department of State and the consular service for obtaining information about the dispute.[71] When Salisbury insisted in June, therefore, on publishing as a Blue Book the Anglo-American correspondence relating to the Venezuelan affair, Storrow and Olney were ready with a statement of the Venezuelan case, which they caused to be published in London,

[69] Storrow to Olney, March 19, 1896, Olney MSS.

[70] Storrow to Olney, May 9, 1896, Olney MSS; *Libro Amarillo, 1897*, p. xx; New York *Tribune*, July 20, 1896, and Chicago *Record*, April 22, 1897; note by Scruggs, April 22, 1897, Scruggs MSS.

[71] Storrow to Olney, April 15, May 12, 30, June 25, 29, July 2, 3, 1896, Olney MSS.

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July 21, 1896, three days after the issuance of the British Blue Book.[72] Henry White, one of Olney's unofficial agents, who ably managed this publication, cabled his advice that the brief for Venezuela should show that it was issued on the authority of the United States government. Olney replied, however, despite the provenience of the brief: "You entirely misconceive. United States makes no brief. Venezuela makes brief to be submitted to our Commission as Blue Book was. It should go before British public almost simultaneously with official correspondence." [73]

Olney's pains to insure a strong presentation of the Venezuelan case, therefore, appear to have originated not primarily from solicitude for Venzuela, but as part of his strategical preparation for a settlement according to American dictation. The United States had, indeed, taken "the place of Venezuela." [74] Not only was her brief prepared by Storrow and Olney; but when Venezuelan police in June 1896 arrested a British surveyor in the disputed area, Olney sternly rebuked the Venezuelan government for impairing peaceful negotiations, and enforced a summary settlement of the incident.[75]

The American commission, meanwhile, continued in session. Olney inquired, October 17, whether its report and recommendation would be available for transmission to Congress in the President's annual message in December; but Justice Brewer, president of the commission, was unable to estimate when the report could be finished. A treaty of arbitration, obviating any need for such a report, was by this time virtually ready, and was signed on November 12. Olney, therefore, instructed the com-

[72] London *Times*, July 18, 21, 1896. For preparation of the brief see Olney to Mrs. Olney, June 20; Olney to Pauncefote, June 26; Storrow to Olney, June 25, July 2, 3, 14, 1896. Olney MSS.

[73] White to Olney, cipher telegram, July 15, and Olney to White, cipher telegram, July 15, 1896, Olney MSS.

[74] See Cleveland, *op. cit.*, p. 256.

[75] Clippings and notes, June 23, 25, 27, Scruggs MSS; Andrade to Olney, *private and confidential*, June 20, 1896, Olney MSS.

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missioners to cease their efforts to lay down a specific line.[76] Thus ended after ten months the chief function of the commission of investigation.[77]

III

The third and successful phase of Olney's policy, meanwhile, had begun on January 12, 1896, when the British government, anxious to allay the unexpectedly violent sentiment of the American government and public, re-opened the subject of arbitration.[78] The Anglo-American negotiations which ensued resulted in the signature, November 12, by Olney and Pauncefote of "heads" of an Anglo-Venezuelan treaty of arbitration. These negotiations have been analyzed elsewhere in detail;[79] but the analyses of them have omitted consideration of the Venezulan position, which is of capital importance in a discussion of the Olney corollary. I shall mention principally, therefore, the relation of the Anglo-American negotiations to Venezuela.

The British overture of January 12, and the reception of it by the American government, were unusual in several respects. Although authorized by Salisbury and Chamberlain, the proposal was made informally through Lord Playfair, who was not a member of the cabinet, to Ambassador Bayard. It suggested that the United States call a conference of powers having territory in the western hemisphere to proclaim the Monroe Doctrine as international law among them. A specific arbitral settlement of the boundary issue, on the mutual condition of excluding both British and Venezuelan holdings, might then be possible before a tribunal composed of English, Venezuelan and American commissioners.[80] Both the British notion for

[76] Olney to Brewer, strictly confidential, October 17, November 10, and Brewer to Olney, strictly confidential, October 17, 1896, Olney MSS.

[77] For the subsequent history of the commission, see *supra*, note 61.

[78] See Tansill, *op. cit.*, pp. 737 *et seq.*

[79] James, *loc. cit.*, pp. 124-42; Smith, *op. cit.*, pp. 122-47; Tansill, *op. cit.*, pp. 737-76.

[80] Bayard to Olney, cipher telegram, January 13, 1896, Olney MSS.

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such a conference, and the alacrity with which Bayard and Olney dealt with so indirect an intermediary as Playfair, seem, in retrospect, singular. But Olney evidently was grateful for the strategic opening which was offered and, although declining to call the suggested conference, seized the occasion to make on January 14 the following counter-proposal:

> . . . let appropriate clause be added to Behring Sea Convention, or, if deemed wisest, let there be an independent convention, which shall provide for settlement by arbitration of all controversies between the two countries, including Venezuelan boundary, and which, as to that controversy, shall explicitly provide that long-continued occupation of territory by Venezuelans or by British subjects shall, with all attending circumstances, be considered by tribunal of arbitration, and be given all the weight belonging to it in reason and justice, or by the principles of international law. Tribunal to consist of two members of present American Commission, of two persons chosen by Great Britain, and of a fifth agreed upon by the two Governments, or, in case of failure to agree, nominated by . . . .[81]

The final settlement, reached ten months later, somewhat resembled this counter-suggestion. But at the time Olney made it, it will be noticed, he stipulated two things, neither of which was yet specifically conceded by the British: (1) that the British government, without multilateral acceptance of the Monroe Doctrine, acquiesce in American intervention, and (2) that the British deal with the United States acting on behalf of Venezuela, which was to participate neither in the negotiation nor on the tribunal.

As to the first stipulation, after Playfair's suggestion had been made, the British showed no further disposition to challenge American intervention per se. They dropped their insistence on the contingent acceptance of the Monroe Doctrine by a group of powers.[82] On January 31, Buckle, editor of the

[81] Olney to Bayard, cipher telegram, January 14, 1896, Olney MSS. The nominator had not been chosen at the time that the original telegram was sent.

[82] Bayard to Olney, confidential, January 18, 1896, Olney MSS. In consenting to deal with the United States in the Venezuelan dispute, Salisbury did not

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Times and unofficial spokesman for Salisbury, conceded to Olney "practical admission of your right to intervene."[83] When Olney, therefore, formally requested that negotiations be transferred to Washington, Salisbury agreed to the transfer without delay, thus at length giving public recognition to American intervention. The British thereby accepted Olney's first stipulation.[84]

His second stipulation was that they deal with the United States acting for Venezuela. In retrospect Olney's insistence on displacing Venezuela in the negotiations, but at the same time refusing to accept responsibility for her conduct, seems at least inconsistent; and the British government considered it so.[85] Olney's counter-proposal of January 14 would have included the Venezuelan boundary dispute in a general Anglo-American arbitration treaty, without giving Venezuela a part either in the negotiation or on the tribunal. After receiving this instruction, Bayard cabled immediately to learn for his own information whether Olney assumed the consent of Venezuela, where her boundary was affected in the projected treaty. Olney's reply was peremptory and revealing: "Communicate

allude to the Monroe Doctrine; nor did Olney make recognition of that Doctrine an issue. Buckle, it is true, wrote, February 7, that "Balfour and Chamberlain have publicly accepted the Monroe Doctrine" (Inclosure in Smalley to Olney, February 7, 1896, Olney MSS); and certain speeches of Queen Victoria, Rosebery and Harcourt might have been construed as accepting the Doctrine. The better opinion, indeed the official opinion, of the British government, however, seems to have been that of Salisbury at the opening of Parliament, February 1896, when he remarked, "I do think the bringing in of the Monroe Doctrine was, controversially, quite unnecessary for the United States. Considering the position of Venezuela in the Caribbean Sea, it is no more unnatural that the United States should take an interest in it than that we should feel an interest in Holland and Belgium." For citations, see Dennis, *op. cit.*, pp. 40-41.

[83] Smalley to Olney, private, January 31, 1896, Olney MSS, quoting Buckle in London.

[84] Bayard to Olney, cipher telegram, February 27, 1896, Olney MSS; *Foreign Relations, 1896*, p. 241. The London *Times* had already suggested the transfer, February 21, 1896.

[85] *Foreign Relations, 1895*, I, 554-55, 565, 567; Memorandum by Bayard, January 24, 1896, Tansill, *op. cit.*, p. 748.

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contents of my cable of fourteenth without delay, leaving British Government, if it thinks it important, to raise question of Venezuela assent." [86] Bayard thereupon conveyed the instruction somewhat dilatorily to Playfair, who, as Bayard had anticipated, raised the point directly "whether the consent and concurrence of Venezuela had been given or was to be given to the plan." Bayard could reply only that an answer would be sent later. Soon afterward, however, Bayard ascertained indirectly that the British government would waive insistence on the prior assent of Venezuela. The British, he found, "consider Venezuela must be represented in arbitration—but if the United States stipulate for Venezuelan concurrence, I believe that would suffice." [87]

By this time Bayard was caught in a maze of semiofficial diplomacy, and his rather deliberate presentation of Olney's case in England lost him the confidence of the State Department.[88] Olney did not approach Salisbury directly, however, but fell back on G. W. Smalley, and his editor, Buckle, with whom he devised a new and less comprehensive basis for arbitration, embracing merely the boundary dispute. A misunderstanding over the bases of arbitration defeated this particular proposal.[89] But the British, having once consented to discuss specific measures with the United States without the prior acquiescence of Venezuela, did not again press any stipulation of this sort other than that the final agreement must be ratified by Venezuela. About this time the Anglo-American negotiations were removed from Bayard's hands, and transferred to Washington. There for the first time they were given official character, when Salisbury empowered Sir Julian Pauncefote to dis-

[86] Olney to Bayard, cipher telegrams, January 14, 16, 1896, and Bayard to Olney, cipher telegram, January 15, 1896, Olney MSS.

[87] Bayard to Olney, confidential, January 18, 1896, and same to same, cipher telegram, January 20, 1896, Olney MSS.

[88] For a discussion of Bayard's conduct of the negotiations, and of Olney's animosity toward him, see Tansill, *op. cit.*, pp. 755-66.

[89] Smalley to Olney, January 22, 23, 25, 27, 28, 30, 31, February 5; Olney to Bayard, cipher telegram, January 28, 1896, Olney MSS.

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cuss the question of an equitable settlement "either with the representative of Venezuela or with the Government of the United States acting as a friend of Venezuela."[90] Olney's second stipulation was thereby explicitly accepted.

From this point proceeded simultaneously two lines of Anglo-American negotiations. The first, directed toward including the Venezuelan matter in a general treaty for adjustment of virtually all disputes between Britain and the United States, met insurmountable obstacles.[91] The second, seeking an independent composition of the Venezuelan issue, was finally successful, but was temporarily impeded by the English refusal to allow districts settled by British colonists to be submitted to arbitration. Olney was determined not to recognize flimsy English claims, resting on brief occupation; but, cleverly paraphrasing one of Salisbury's notes, he finally suggested, July 13, a formula, recognizing prescriptive title, which proved to be a satisfactory compromise: "will Her Majesty's Government assent to unrestricted arbitration of all the territory in controversy with the period for the acquisition of title by prescription fixed by agreement of the parties in advance at sixty years?"[92]

Although this critical compromise was made, and accepted by the English with a slight modification, without the knowledge or consent of Venezuela, Olney has been perhaps justly credited with a diplomatic triumph in thus reconciling the opposing Anglo-American demands.[93] Yet one of the puzzling features of his conduct of the American intervention is his failure to advance a concrete suggestion for prescription earlier. Both in his note of July 20, 1895, and in his counter-proposal of January 14, 1896, he had evinced willingness to allow the submission to arbitration of the validity of prescriptive title. During the spring of 1896, moreover, he made efforts to acquaint himself with the international law of pre-

[90] *Foreign Relations, 1896*, p. 231.

[91] See James, *op. cit.*, chap. xii.

[92] *Foreign Relations, 1896*, p. 254; Smith, *loc. cit.*, pp. 137-38.

[93] See Smith, *loc. cit.*, pp. 138, 146.

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scription, and to force the British to give their notion of what a "settled district" was. As early as February 11 the assistant secretary of state informed him that a sound rule of prescription would require occupation for forty or fifty years.[94] The British, however, steadily declined to state what constituted in their opinion acquisition of prescriptive title.[95] Olney then tried to learn whether the British settlements were not so few as to make quarrelling over them unnecessary; but both the American minister at Caracas and the American commission at Washington guessed that they were extensive.[96] Here Olney left the matter until July 13, when he made his first specific suggestion that a period of sixty years be fixed for acquisition of title.

This proposal lay in abeyance until Pauncefote returned to Washington, October 22, from a three months' leave in England. Olney, meanwhile, drafted and sent to Storrow, September 12, a sketch of a treaty of arbitration, providing in the *compromis* that title to territory held for forty years should be deemed good.[97] When Pauncefote arrived from London with a proposal for forty-five years, the basis for final agreement was laid.[98] Olney and Storrow, in consultation with Andrade for the first time, revised their figure upward to fifty years.[99] The British government agreed to this term, and "heads" of an

[94] Memorandum in hand of A. A. Adee, February 11, 1896, Olney MSS.

[95] See Tansill, *op. cit.*, pp. 757-66.

[96] Mallet-Prevost to Olney, February 12, and Allen Thomas to Olney, February 17, 1896, Olney MSS.

[97] Olney to Storrow, September 12, 1896, Olney MSS.

[98] Pauncefote to Olney, private, October 28, 1896, Olney MSS. See also, R. B. Mowat, *Life of Lord Pauncefote* (London, 1929), p. 199. Chamberlain's discovery in the course of a flying trip to America in the fall of 1896, that the election of a Republican president in November would not change the attitude of the American government toward the Venezuelan question, perhaps encouraged the British government to come to terms with the United States. See Tansill, *op. cit.*, p. 774.

[99] Rockhill to Olney, July 30, 1896; Storrow to Olney, undated, and same to same, October 22, 28, 1896, Olney MSS.

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Anglo-Venezuelan treaty of arbitration were signed, November 12, 1896, by Pauncefote and Olney.[100]

Two provisions adverse to Venezuela in this protocol are noteworthy: Article II, authorizing the highest courts of Great Britain and the United States to name the arbiters, was distasteful to Venezuela, which was given no representation on the tribunal; and Article IV, stipulating fifty years' occupation to confer good title, was resisted by the Venezuelan government, which had hitherto declined to recognize any British settlements of whatever antiquity in the disputed area. These articles were the result of compromises about which the Venezuelans knew only through the press.[101] Not until the end of the negotiations, when it became apparent that Venezuela would have to be cajoled or coerced into signing the treaty, was Andrade taken into the confidence of Storrow and Olney. Andrade was persuaded, probably with reason, that the Anglo-American protocol was the most favorable settlement which his country could obtain. He was deputed, therefore, to go to Caracas to prevail upon his government to accept the treaty.[102]

Accordingly, immediately after Olney and Pauncefote had signed the "heads", Storrow and Andrade bore the treaty to Caracas, where it was published in the press as a "memorandum" on December 7, together with a letter from Cleveland, recommending to the President of Venezuela that the treaty be signed in the form agreed upon by the United States and Great Britain. An outcry instantly arose. "Many and discordant were the opinions published in the press of the Republic," reported the Venezuelan foreign secretary.[103] Most inflammatory

[100] *Foreign Relations, 1896*, pp. 254-55.

[101] Note by Scruggs, December 10, 1896, Scruggs MSS. See also *Libro Amarillo, 1897*, pp. xx-xxv. Storrow consulted the Venezuelan government about presentation of its own case, but apparently divulged nothing of the Anglo-American negotiations.

[102] Storrow to Olney, October 22, 1896, Olney MSS; Cleveland, *op. cit.*, p. 276.

[103] *Libro Amarillo, 1897*, p. xxxii; *New York Times*, December 8, 1896; Crespo's speech to the Venezuelan Congress, February 20, 1897, *New York Times*, March 12, 1897.

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was a letter published by Tomas Michelena, the foremost international lawyer of Venezuela, insisting that the fifty-year clause was outrageous, and that the signature of the protocol would convert his country into a protectorate of the United States.[104] Scruggs confided to his diary that Olney was attempting to "over-awe and *bull-doze* Venezuela."[105] Private citizens were reported to have been ordered to deposit their arms at the Ministry of the Interior, lest President Crespo precipitate a revolution by accepting the treaty.[106] Storrow and Andrade were forced to postpone their return to Washington from the tenth until the twentieth of December.[107] At the height of the uproar Venezuela apparently approached Salisbury for the purpose of a direct Anglo-Venzuelan settlement, putting the United States aside. Salisbury rejected the proposal, however, and tactfully did not mention the subject to Olney.[108] At all events, when the Venezuelan government requested that it be allowed to name one of the arbiters, the United States and Great Britain agreed.[109] Andrade then returned to Washington with the treaty where it was signed, February 2, 1897, by him and Pauncefote.[110]

Once again, on the next day, the press of Caracas, warning of a protectorate, pronounced its opposition to the treaty.[111] The Venezuelan Congress, which convened on February 20,

[104] Note by Scruggs, December 12, 1896, Scruggs MSS; New York *Journal*, December 12, 1896; New York *Times*, December 12, 1896.

[105] December 15, 1896, Scruggs MSS.

[106] Undated clipping, New York *Journal*, Scruggs MSS.

[107] Clipping, and note by Scruggs, December 12, 1896, Scruggs MSS.

[108] Mowat, *op. cit.*, p. 202.

[109] *Libro Amarillo, 1897*, p. xxxiv. Venezuela was forbidden to name a Venezuelan as arbiter. She chose a justice of the U. S. Supreme Court. Storrow to Olney, Monday [undated otherwise], Olney MSS.

[110] *Foreign Relations, 1896*, p. 255.

[111] New York *Journal*, February 4, 1897. The *Journal*, although not noted for its accuracy, had sent a special correspondent to cover the reception of the treaty in Venezuela. He reported the Caracas papers to be almost unanimously opposed to the treaty.

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stood on its constitutional right to receive only a signed copy of the treaty in Spanish; so a translation was hastily made and signed at Washington. As the delays continued, Scruggs was sent to Caracas, where he found the treaty lying in the foreign affairs committee of the Venezuelan Senate.[112] After several adjournments for fast days, the Congress ratified the treaty, March 30, 1897. Ratifications between Venezuela and Great Britain were exchanged at Washington, June 14, 1897. A tribunal of arbitration was instituted without delay, and its decision, rendered on October 3, 1899, fixed the boundary of British Guiana and Venezuela.[113]

The immediate outcome of Olney's Venezulean policy, therefore, was the vindication of the Monroe Doctrine by the termination of the boundary controversy. That the arbitral award perhaps favored Britain's claim was, from the American point of view, immaterial.[114] One is struck, indeed, by Olney's single-mindedness. The end to be reached was an impartial and pacific settlement. Olney's chief concern for a year and a half was to achieve that goal. But one is also struck by the flexible notion he entertained of the methods available to settle the dispute. He would have accepted, ostensibly, almost any peaceful solution as satisfying the dictates of the Monroe Doctrine.[115] The concern of Cleveland and Olney for the plight of Venezuela, expressed in the note of July 20 and the message

[112] New York *Times*, February 26, 28, 1897; note by Scruggs, March 16, 1897; interview by Scruggs in the New York *Journal*, May 9, 1897, Scruggs MSS.

[113] *Gaceta Oficial*, Caracas, April 5, 1897, No. 6982, p. 15914, and April 8, 1897, No. 6985, p. 15925; the New York *Times*, April 8, gives the date of ratification erroneously as April 5. For exchange of ratifications, see New York *Times*, June 15, 1897. The Venezuelan cabinet resigned in June, perhaps over the ratification, New York *Journal*, June 29, 1897; but Andrade denied that this was the cause of the resignations, Andrade to Scruggs, July 7, 1897, Scruggs MSS. For the arbitral settlement, see *Proceedings of the Tribunal of Arbitration between Great Britain and the United States of Venezuela* (Paris, 1899).

[114] See Cleveland, *op. cit.*, pp. 176, 279.

[115] See Richardson, *op. cit.*, IX, 658.

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of December 17, 1895, was, of course, genuine; but they considered that her plight arose from England's refusal before 1896 to negotiate a settlement *in a manner regarded by the United States as reasonable*. As soon as the British government consented to a general composition of the controversy, Olney's studied impartiality between the disputants became more apparent. When Venezuela later seemed disposed to reject the treaty obtained for her by Olney, he was constrained in turn to exert pressure on her to ratify it.

Since Olney's Venezuelan policy was as distinct a gloss on Monroe's message as, for example, the Roosevelt or Lodge corollaries, it may perhaps be isolated and called the Olney corollary of the Monroe Doctrine. Although Olney never cogently and succinctly formulated his corollary, it seems possible to state it, and to classify it, as follows: If grounds exist sufficient to persuade the United States that the political or territorial integrity of an American state is threatened by a non-American power, the United States regards the Monroe Doctrine as automatically implicated, and claims the right to intervene between the two disputing states. Termination of the dispute through a settlement reached by the free consent of both states will be considered as satisfying the Doctrine. If, however, no such settlement is reached, the United States may suggest, and impose impartially, such a composition of the dispute as seems in its sole judgment reasonable and just.

Stated thus, the Olney corollary resembles closely a type of intervention, known to international law, and defined by Oppenheim as "the dictatorial interference of a third State in a difference between two States, for the purpose of settling the difference in the way demanded by the intervening State." [116] The implications of so broad a right of intervention as this, exercised in the name of the Monroe Doctrine, were not lost on the British. Evidence accumulates that they were aware of the magnitude of their concessions to Olney, and that their

[116] Lassa Oppenheim, *International Law, a Treatise*, 5th ed., ed. by H. Lauterpacht (London, etc., 1935), II, 130.

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diplomacy was thereafter directed toward persuading the United States to accept responsibility for the behavior of the Latin American states. The fruit of this policy, in part at least, was the Roosevelt corollary.[117]

Both of these corollaries, based as they are on the right of intervention, have now been repudiated or abandoned by the United States.[118] The Olney corollary, however, is the ultimate expression of determination by the strongest power in the American continents to maintain the inviolability of those continents. It is interesting to speculate, therefore, whether the principle of the Olney corollary might not again obtain, if at a critical juncture a stubborn European-Latin American dispute should sometime jeopardize hemispherical solidarity.

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[117] See Perkins, *op. cit.*, pp. 239-40, 361-64.

[118] Convention Defining the Rights and Duties of States (Montevideo, 1933), Article 8.

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GALLOWAY'S PLANS FOR ANGLO-AMERICAN UNION

IN addition to the well-known plan of union which Galloway proposed in the Continental Congress in September 1774, he subsequently drew up several others which have not hitherto been published. Dr. Julian Boyd has rendered a useful historical service in reproducing them, together with the plan of 1774, as appendixes to this volume.[1] In his text he places Galloway and his writings in their contemporaneous context and historical setting. This will be read with profit by those who, for whatever reason, are interested in the plans or their author. Dr. Boyd makes no pretense of being neutral on the great issues of the American Revolution. His outlook on the British imperial problem of those days is that of a radical American Whig. If he had been a member of the Continental Congress, he would have voted wholeheartedly against Galloway's plan, though, being a historian with an enthusiasm for archives, he might have boggled at voting to exclude all reference to the plan from the minutes. His sympathies make it difficult for him to do full justice to Galloway, though he concedes to him "some of the elements of disinterested statesmanship" (p. 78).

The plans which Dr. Boyd has brought to light differ in several interesting respects from the earlier plan which Galloway presented in the Continental Congress. In 1774 Galloway proposed the establishment of an American branch of Parliament to consist of a president general appointed by the crown and a grand council to be chosen by the several colonial assemblies and to exercise "all the Legislative Rights, Powers and Authorities necessary for regulating and administering all the general Police & Affairs of the Colonies in which Great Britain and the Colonies or any of them, the Colonies in general or more than one Colony are in any Manner concerned as well civil and criminal as commercial." Such general regulations were to originate either in the Parliament in Great Britain or in the grand council in America, but the assent of both was to be requisite

[1] *Anglo-American Union: Joseph Galloway's Plans to Preserve the British Empire, 1774-1788.* By Julian P. Boyd. Philadelphia, University of Pennsylvania Press, 1941. x, 185 pp. $2.00.

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to their validity. Each colony, it was specified, was to retain its existing constitution and its right to regulate its own internal affairs. All of Galloway's later plans were drawn up after the Declaration of Independence, and the problem to which he addressed himself in them was not, as in 1774, to prevent American rebellion and imperial disintegration, but to reconstruct the empire after the suppression of the rebellion.

On March 18, 1779, Galloway sent to Lord George Germain two alternative plans "for Establishing a Permanent Union between Great Britain and America". The original document is in the Stopford-Sackville Manuscripts in the William L. Clements Library and is reproduced by Boyd in Appendix II. The first plan proposed to give the colonies representation in the British Parliament "as in the cases of Chester, Durham, Wales and Scotland", a recommendation which had already been made by many publicists on both sides of the Atlantic. Galloway probably had little hope of the adoption of this proposal and devoted much more space to his second plan, which was a variation of the plan of 1774. The most striking differences between the two are explained by Galloway's conviction that it was "of the utmost Importance to the permanent Union of the parts of a Great Empire that the same essential principles of policy should pervade the whole" and "run thro every inferior and Subordinate Politic Body" (p. 121). Accordingly he now proposed the establishment of an American branch of Parliament consisting of a representative of the crown and *two* houses, the members of the upper house to be appointed by the crown for life and to be vested with "some degree of Rank or Dignity above the Commons", and the lower house to be chosen by the colonial assemblies. The American branch of Parliament would thus be established "on the principles of a Mix'd Government" (p. 121). Like many other Loyalists, Galloway attributed the revolt of the colonies chiefly to the fact that their institutions had not been assimilated to those of the mother country. The principle of assimilation, he urged, should likewise be introduced into the governments of the several colonies, which, he thought, ought to be "reduced to one Form, and consist of a Governor and privy Council to be appointed by the Crown . . . an upper house of the same appointment . . . and an Assembly chosen by the people" (p. 123). Under no circumstances would he restore the old charter and proprietary colonial governments. "Had these Governments been originally formed upon the same principles of

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mix't policy upon which the principal State is established America had not known a Rebellion" (p. 125).

In Appendix III Dr. Boyd publishes a letter of Galloway's addressed to Charles Jenkinson and probably written late in 1780 or early in 1781. The original is in the possession of Mr. Lawrence J. Morris of Philadelphia. In this Galloway included two alternative plans of union which closely follow those which he had sent to Germain in 1779, with the addition of some provisions for commercial regulations.

Appendix IV consists of a document which Dr. Boyd entitles "Plan of Union *ca.* 1785". The original is in the Division of Manuscripts of the Library of Congress. It is without date, signature, or address and is described by Boyd as "a very rough draft, showing many corrections, interlineations, and changes" (p. 108). No information is given as to the provenance or handwriting of the manuscript. Dr. Boyd notes that it "differs considerably" in style and content from the other plans which he publishes, but he treats it as indubitably a Galloway plan and thinks that it reflects "Galloway's own convictions more precisely than his previous writings on the subject" (p. 108). He expresses doubt as to whether its proposals were intended to apply to the revolted colonies or only to those that remained in the empire after 1783 (p. 108).

I have not seen the manuscript itself, and in any event I should not take issue with Dr. Boyd lightly on a question of this kind, but neither the document (as printed in Appendix IV) nor Dr. Boyd's comment on it convinces me that it should be attributed to Galloway. It is clear enough that the writer was an American Loyalist, but there is a good deal in it that suggests New England authorship—the use of the term "legislative courts" for legislatures (Galloway, I think, would have written "assemblies" or "general assemblies") and the writer's familiarity with Massachusetts institutions and political practices. The writer of this document states emphatically that distance was the chief source of the troubles that arose between Great Britain and her old colonies (p. 158), and his principal proposal was the establishment of a viceregal authority in North America with the object of removing this cause of imperial weakness. Galloway, however, in remarks upon one of the plans of union set forth in his letter to Jenkinson, declared that "the distance of a Member of the Politic Body has as little to do with the good or ill Government of it, or with its Obedience to the supreme Authority, as that

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of a Member of the human Body which, however distant or near, equally obeys the human Will" (p. 136). But even if the manuscript which Dr. Boyd found in the Library of Congress was written by Galloway, I am inclined to think it should be viewed, not in relation to his very dissimilar plans for union between Great Britain and the revolted colonies, but in a quite different setting.

As early as 1783 the British government was considering the appointment of a governor general over all the remaining British North American colonies. In 1784 Lord Sydney, the British secretary of state in charge of colonial affairs, wrote to the governor of Nova Scotia that it was "intended to place a person on the spot to settle matters without the delay of referring everything to Britain".[2] Sir Guy Carleton was the man favored for this position, but the government, as was its custom, acted in leisurely fashion. On April 6, 1786, Lord Sydney, in a dispatch to the lieutenant governor of Quebec, said that the king had for some time "had it in contemplation to appoint a Governor General over his remaining American Dominions, not only with the view of uniting their general Strength and Interests, but for the more ready determination of Subjects upon which instant decision might be requisite. His Majesty upon this idea has been pleased to fix upon S^r^ Guy Carleton."[3] The title of governor general was not given to Carleton, but a few days later he was appointed captain general and governor in chief of each of the provinces of Quebec, Nova Scotia (including Cape Breton Island and Prince Edward Island), and New Brunswick, as well as commander in chief of His Majesty's forces in each of these provinces and in Newfoundland.[4] It is in this context, I suggest, that Dr. Boyd's document should be read. When the writer proposed the appointment of "a Lord Lieu^t^ or Gov^r^ Gen^l^ over the whole of such colonies" (p. 159), I suspect that he was thinking of what Lord Sydney was thinking of in the dispatches referred to above. William Smith, formerly Chief Justice of New York and later Chief Justice of Quebec, went to England in company with Carleton in 1783 and actively supported Carleton's interests. In a document dated Sep-

[2] Alfred Leroy Burt, *The Old Province of Quebec* (Toronto and Minneapolis, 1933), p. 425.

[3] Adam Shortt and Arthur G. Doughty, eds., *Documents relating to the Constitutional History of Canada, 1759-1791* (2nd ed., Ottawa, 1918), p. 810.

[4] *Ibid.*, p. 810, n. 2.

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tember 19, 1785,[5] he outlined the powers, viceregal in character, which he thought ought to be given to his friend. It is not unlikely that Smith and Galloway, both prominent Loyalists, saw something of each other in London, and it would not be surprising if they discussed the proposed appointment of a governor general of British North America. At any rate, the subject was probably discussed in Loyalist circles in London, and it would not be strange if a document relating to it found its way into Galloway's papers. Be that as it may, better evidence than Dr. Boyd gives is needed to show that his document belongs in the series of Galloway's plans of union.

The last document printed in this volume is a plan "for facilitating the reduction of the Revolted Colonies, and for establishing a permanent Union between them and Great Britain" (p. 100 and Appendix V). This was sent to Henry Dundas by John Morrison with a note at the end dated March 7, 1788, in which Morrison said, "The above plan I had the honour with Mr. Galloway to lay before my Lord George Germain in March 1780." Dr. Boyd, who remarks that Morrison's note was obviously written at a later period than the body of the document (p. 177, n. 3), says that except for minor changes "this Plan submitted to Dundas in 1788 agreed in all respects with the Galloway-Morrison document of 1780" (p. 100). This being the case, the propriety of attaching the date 1788 to this plan, as is done in the heading of Appendix V, or of using the year 1788 as the terminal date on the title page of the volume, is not apparent.

ROBERT LIVINGSTON SCHUYLER.

[5] Burt, *op. cit.*, p. 428.

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REVIEWS

The Destiny of Western Man. By W. T. STACE. New York, Reynal & Hitchcock, 1942.—xi, 322 pp. $3.00.

This is a challenging book and should be particularly welcome at this moment, because its author tries to go beyond the obvious observations and beliefs concerning the democratic and totalitarian views and practices of life. Throughout the entire book the emphasis in judging the worth of the two opposing *Weltanschauungen* is in moral terms, as indeed that is the only test in the last analysis.

Professor Stace starts out by contrasting two incompatible conceptions of morality—the Greek view of morality as arising out of the very nature of man and, therefore, being immanent, and the "Palestine" view of Jewish and Christian origin conceiving morality as imposed by an external God. This latter impositionist view of morality, Professor Stace demonstrates, has persisted in philosophical thought to the present, even though the rationalist and Kantian schools eliminated a personified God as the stipulator of moral rules. Only today do we witness a return to the Grecian idea of morality being immanent in human nature; and thereby the entire responsibility for the future of Western civilization is squarely placed upon us who have to decide, and decide now, upon the spiritual climate in which we and our children shall live.

Having raised the problem, Professor Stace attempts to answer it by contrasting the Greco-Christian view of life with the totalitarian world outlook. From the Greeks he takes the principle of the primacy of reason as the guiding star of human behavior and proceeds to show that this is not incompatible with the motive force of Christian ethics, the primacy of sympathy. Both merge in what is indeed the foundation upon which all democratic society rests, the belief in "the infinite value of the individual". On the contrary, totalitarian thought is based, according to Professor Stace, upon the belief in the primacy of the will, as expounded by Schopenhauer, and the principle of self-assertion rather than that of sympathy.

Unfortunately for the issue of this book, which is to prove by reasoning and moral standards the superiority of the liberal-democratic

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way of life over its totalitarian challenge, Professor Stace, in the opinion of this reviewer, has not presented a fair and adequate statement of fascist ideas, nor indeed of the moral inspiration of Nietzschean philosophy which he regards as the ethical foundation of the Nazi viewpoint. Christian ethics are inspired by selflessness, sympathy and love which, Professor Stace specifically states (pp. 104, 289) but does not attempt to prove, are merely different words for the same emotion. Now it is precisely in disassociating sympathy as commonly understood from love for one's fellow beings that Nietzsche's challenge lies. All of Zarathustra's self-purification and self-assertion are for the purpose of returning to men: "Now I wait for *my* redemption—that I may go unto them for the last time. For once more I will go unto men; among them I wish to pass on; dying I will give them my choicest gift."

But Nietzsche did more than raise a question of method, that is, to inquire into the best way for the individual to contribute to the well-being of his fellow men. In speaking of self-assertion and the rôle of the will, Nietzsche has pointed to the deep-seated conflict between individual freedom and the requirements of society, a problem to which democracy and totalitarianism give opposite answers. Where the requirements of the state are concerned, Nazi ideology counts the individual nothing, and surely Nietzsche, the apostle of unbridled individualism, cannot legitimately be made into the godfather of German fascism. In fact, Nietzsche was quite specific on this point: "State is the name for the coldest of all cold monsters. Coldly it lieth, too; and this lie creepeth from its mouth: 'I, the state, am the people.' It's a lie. Creators were the ones who created peoples, and hung a faith and a love over them: thus they served life. . . . There, where the state ceaseth—there only commenceth the man who is not superfluous. . . . There, where the state ceaseth—pray, look thither, my brethren! Do ye not see it, the rainbow and the bridges of the Superman?"

On the contrary, and I quote from Professor Stace, "the essential characteristic of totalitarianism is its repudiation of, or perhaps we should rather say its blindness to the existence of, the key of western civilization, the belief in the individual's infinite value" (p. 208).

In fact Professor Stace at one point realizes this fundamental contradiction: "It is true that Nazism stresses the idea of self-sacrifice in the sphere of the relations of the individual to the state. And of course self-sacrifice is a Christian, not a Nietzschean, ideal. But, this is a mere corollary of the transfer of the Nietzschean ide-

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ology from the sphere of the relations of individuals to the sphere of the relations between states although [as Professor Stace says earlier in the same paragraph] in his ethical thinking he [Nietzsche] was not thinking of the struggle of nations." In other words, the Nazi belief in the need for individual sacrifice is Christian, not Nietzschean, whereas the Nazi assertion of the supremacy of the German nation is no part of Nietzschean philosophy. Yet one of the twin pillars of this book's argument is the assertion that our democratic way of life is based on selflessness, while totalitarianism stems from the Nietzschean idea of self-assertion.

Moreover, it is not legitimate in one case to evaluate a social philosophy in terms of the individual's relationship to the state and in the other in terms of the relation between countries. Only on the basis of the same criteria can a comparison be made. Thus this reviewer is forced to conclude that Professor Stace's argument in this volume fails to prove that "in the end our cause must triumph, not because it is ours, but because it is just" (p. 311). But we should not be too critical of his failure, because Professor Stace's problem was a difficult one, the most fundamental problem confronting society today. We should be grateful to him for having raised the issue.

CARMEN HAIDER

NEW YORK CITY

The Spoil of Europe. By THOMAS REVEILLE. Foreword by Raymond Gram Swing. New York, W. W. Norton and Company, Inc., 1941.—344 pp. $2.75.

It is unfortunate that the author of this work has had to remain anonymous, since his book is worthy of serious attention. This reviewer has been able to learn the name, reputation and background of Thomas Reveille. He is a careful scholar, who knows what he is talking about; but he is not a German refugee, as several reviewers have guessed.

Reveille's thesis is that the Germans are consolidating their victories by remaking the political, economic and educational systems of the conquered nations. This is no news to us, but the author adds a great deal to our incomplete knowledge of what has been going on. The first part of the book is devoted to a more or less familiar statement of the Nazi conception of the superiority of the "master race" and the élite party members. Reveille also gives a clear picture of the Nazi economic structure at home and claims that Nazism is defi-

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nitely an article for export. Substantial imitations have been built up in Luxembourg, Alsace, Danish Schleswig-Holstein, Austria, the Sudetenland, Danzig and what was the Polish Corridor.

Reveille asserts that the conquerors seize and send to Germany stocks of raw materials, finished products, industrial machinery and railway rolling stock. Their policy has been threefold: first, in Poland and Rumania which they want to be exclusively agricultural and raw material domains of the Reich, they close the factories and send the best of the machinery to Germany. Secondly, they close factories in Northern France and the Low countries that compete directly with German firms. Thirdly, all armament factories in the occupied territories have been closed. The remaining factories are to "complement" and fit into the integrated Reich economy.

The method of gaining control is simple. The Nazis require the vanquished to pay "costs of occupation" equal, not to actual costs, but to the maximum war budgets of each country prior to the German conquest. Not only can the Germans pay "legally" for goods with these balances, but they can buy into the commercial banks, firms and factories of the conquered nations. With some delicacy they buy only 49 per cent of the stock of French firms. The realignment of currency values appears nominally to favor the subject nations through overvaluing the native money in terms of the mark. This was done to even up the price and wage structure in each country with Germany's, where prices and wages were higher. Of course, currency readjustments mean nothing, if you are systematically robbing the occupied territories, or if you are blocking their balances in Berlin effectively. The Nazis are not waiting for doubtful reparations after the peace. They are collecting now.

The economic invasion is as carefully planned as the military invasion. The Nazi Economic Mobile Units travel right along with the armies. They bring in the *Soldatenbanken*, or soldiers' banks, and various types of credit currency, including the *Wehrmachtsverpflichtungsscheine*, military promissory notes for payment of 50,000 RM or over. Of course, central banks are either absorbed or closely controlled by German bankers, while her branch banks dot the continent. "Soil and labor" or "black gold" (coal) make up the backing for the currency. The Economic Mobile Units repair public utilities and railroads, ship stocks to the Reich, and take over mines and factories and put them back in working order. A conservative estimate of the worth of the Reich war booty is thirty-six billion dollars.

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Germany is also dipping into the labor reservoir of conquered Europe. Reveille estimates that three million prisoners of war work in Reich factories and fields. Prisoners are not required to work in armament factories. They are paid about one half the regular German pay. Also, the unemployed in conquered territories, under penalty of losing both their dole and food cards, must work in Germany. The Nazis consign Poles and Slavs to agriculture, others to industry on the basis of "blood order" or penalize some by means of a "social inferiority" tax.

In her foreign trade Germany is quick to get or take goods and slow to pay. To replace present unilateral agreements, the Nazis want to set up a multilateral trade system, centered in Berlin, which will use the mark as its currency, keep reserves in Berlin and enrich Germany with the financial fees that used to go to London bankers.

As in the case of many students before him, Reveille obtained much of his material from official government sources, and, in like fashion, has forgotten that many "paper" plans never become translated into action. In other words, this reviewer does not believe the German economic system, at home or in the occupied territories, works with the efficiency Reveille assumes. It is a little too efficient to be true. Otherwise, he has done very well.

HENRY S. MILLER

QUEENS COLLEGE

Nazi Europe and World Trade. By CLEONA LEWIS assisted by J. C. MCCLELLAND. Washington, The Brookings Institution, 1941.—xi, 200 pp. $2.00.

In the words of the author, this small volume seeks to determine "whether—judged by past performances—the resources of this area [that which is more or less effectually controlled by Nazi Germany, including most of continental Europe] are of such a character that independence of foreign sources of supply is likely to be realized; or if self-sufficiency is lacking, whether the area enjoys extraordinary advantages in the field of trade" (p. 2). Is the area independent with respect to foodstuffs and self-sufficient as to agricultural raw materials, forestry products and industrial minerals? What are the chief foreign sources of supply of necessary imports? What exportable surpluses are available in Nazi Europe? These and other specific questions are considered.

Over one hundred tables of statistical data are presented in this book to supply the factual information for use in drawing general

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conclusions. Figures for the years 1929 and 1937 are used consistently. "The former was one of the few prosperous years made possible by the stabilizing effects of the Dawes plan and of large American loans. The year 1937 was one of great business activity in Germany, and one of reasonably normal trade relations. That is to say, the economies of Germany and neighboring states had not as yet been greatly distorted by the purchase and storage of goods for war purposes" (p. 3).

The foreign trade of the old Reich from 1913 to 1937 is described first, followed by that of present Nazi Europe. It is found that "the trade of the enlarged German area is similar in character to that of the old Reich," and that the German shortage of raw materials "has actually been greatly increased by the expansion over additional territory" (p. 14). Moreover, with respect to principal foodstuffs, "the shortages for the larger area now under German domination are even larger than those for the old Reich" (p. 56). Conditions vary widely, however, among different commodities; and in the case of meat, dairy products, eggs and potatoes, the area has been on an export, rather than an import, basis. Of interest to Americans are the facts that the western hemisphere countries supplied more than 60 per cent of Europe's grain and the United States "is and long has been the principal source of cotton for Nazi Europe" (p. 60). These facts have particular significance when the long-run trade problems of the United States are under consideration. With regard to mineral raw materials, Germany's position "has not been improved by her acquisition of additional territory in Europe" (p. 127). Shortages of copper, petroleum and manganese create difficult, although not acute, problems for the Nazi area.

A concise account of the means used by Nazi Europe to obtain a balance of payments is presented in chapter v, with attention focused upon the nature of the service transactions which were important as late as 1937. The author concludes that if the Hitler government should assume complete control over the economic life of the conquered area, "an attempt probably would be made to bring commodity imports and exports into closer balance, by imposing and maintaining a wide range of controls over foreign trade and foreign exchange" (p. 139). Many adjustments in currency systems and trade practices would be necessary, however, to permit the component states to operate under the present German plan.

In chapter vi, which deals with Nazi Europe's place in world trade, it is concluded that in absolute amounts, "Europe's trade with the

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British Isles was of outstanding importance" (p. 172). If Britain, in future years, should obtain from other parts of the world a considerable fraction of the imports previously brought from Nazi Europe, the German area's exporting and paying capacity would be seriously impaired.

The reader of this volume will be impressed by the wealth of statistical material which it contains. These data throw needed light upon the quantitative aspects of Nazi European trade in the two selected years, 1929 and 1937. One who expects to find in this book positive answers to the currently popular questions concerning the nature of the prospective trade relations between the United States and Europe after the war will be disappointed. This remains a matter of conjecture and speculation. The information is designed "to throw light on the future," but no attempt is made to forecast the outcome and consequences of the war. The factors which have prevailed in the past "promise to play an important part in determining the future trade of the area, including trade with Western Hemisphere countries" (p. 174).

In the opinion of the reviewer, the author has produced a useful and authoritative source book of information to aid in an understanding of the current and probable future international trade problems.

C. WARD MACY

COE COLLEGE

Reason and Revolution: Hegel and the Rise of Social Theory. By HERBERT MARCUSE. London, New York, Toronto, Oxford University Press, 1941.—xii, 431 pp. $3.75.

The first half of this volume summarizes Hegel's philosophical development by means of a chronological study of his writings, necessarily reviewing much recent critical research. This is followed by an examination of the history of Hegel's social and political ideas to the present. The author's point of view is throughout sufficiently original and controversial to claim careful consideration.

Marcuse maintains that Hegel's idealistic rationalism was not really a bulwark for the Restoration governments in Europe, but a critical, revolutionary philosophy which underwent a natural development in the works of Karl Marx and the historical materialists. Hegel's philosophy, according to Marcuse, is essentially a negative philosophy, "originally motivated by the conviction that the given

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facts that appear to common sense as the positive index of truth are in reality the negation of truth, so that truth can only be established by their negation" (pp. 26, 27). This basic conviction of Hegel became central for Marx. Marcuse stresses Hegel's logic and his category of contradiction as a fundamental reality of existence. He finds in Hegel's concepts of reason and freedom the intellectual justification for revolution and for a progressing social order. But he is not unaware of the difficulties in his view, nor does he overlook opposite tendencies in the *Philosophy of Right*.

Important differences between the Marxian and Hegelian dialectic are developed in detail. Marcuse correctly subordinates state and law in Hegel's system to the cultural realm of art, religion and philosophy which for Hegel embodies ultimate truth. He holds that the political doctrines of the *Philosophy of Right* are out of line with the main drive of Hegelian philosophy. Hegel's conception of reason involved a break with the classical tradition in its application of thought to the actual historical world. He sought to bring reason to bear upon reality, thought upon action, morality upon practical justice, the inner life upon the social life of man. Where he failed and fell back on the idealist aloofness from reality, Marx went on to materialize his thought and to transform metaphysics into social theory.

Marcuse is most convincing in his further analysis of the conservative reaction against Hegel which took the form of positivism. This he blames for most of the reactionary political thought that is plaguing us today. Schelling and Friedrich Stahl are included with the French and English leaders who maintained that social and political laws, because they are like natural laws, cannot be improved by human will or reason. It is to these positivist philosophies that we should look for the origins of the modern totalitarian state. In his defense of Hegel against repeated charges of laying the basis for fascist ideology, Marcuse brings out the sharp contrast between Hegel's notion of a power state and the fascist conception of the nation or people as supreme law. Hegel's championship of a strong state, standing above the irreconcilable conflicts of society, and insuring the reign of impartial law and reason is a recognized antithesis to the National Socialist theory of the "Volk" as above law and reason, subject to the mystic will of a single leader.

J. GLENN GRAY

WALLINGFORD, PA.

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Challenge to Karl Marx. By JOHN KENNETH TURNER. New York, Reynal & Hitchcock, 1941.—viii, 455 pp. $3.50.

Mr. Turner is the author of several books — *Barbarous Mexico* (1910) and *Shall It Be Again?* (1922)—which, in their time, have attracted readers and aroused discussion. His writings have always been earnest, highly documented, intensely readable, and radical. It is, therefore, news that he now trains his talents upon the founder of modern socialism and his disciples. *Challenge to Karl Marx* has the qualities of Mr. Turner's earlier volumes. It is highly documented, as twenty-two pages of notes and nine pages of bibliography demonstrate; and, unless the word has been entirely resigned to those who have claimed it, it is radical. The field selected for investigation is somewhat unusual for Mr. Turner, but this can be credited to other times rather than to him. The field has required investigation.

This book is a polemic of ambitious proportions. Manya Gordon, in her *Workers Before and After Lenin*, was content to consider the aims and accomplishments of the Soviet Union. Mr. Turner sets himself the full task; Marxism as prophecy, Marxism as economics, Marxism as philosophy, and Marxism as tactics and strategy have been accorded generous treatment. The style is severe and unsympathetic, but the sum of Mr. Turner's analysis is a body of information which can withstand consideration.

Mr. Turner has performed a number of critical services. For one thing, he makes it clear that inevitability was and has been a basic tenet of Marxism; and this, despite the emphasis which Marxists have placed on tactics and strategy. Once the utter failure of Marxist prophecy is displayed, it seems impossible to take seriously its scientific pretentions, as Sidney Hook, for one, would have had us do. Marx's "law" of increasing misery and exploitation (pp. 122 *et seq.*), with several other "laws", succumbs to common sense. Other Marxian tenets—notably the famous labor theory of value—have been challenged before. But Mr. Turner explains *why* these heavy and obscure pronouncements attracted followers, many of whom were not proficient in abstract thinking. It was precisely because the "laws" were heavy, obscure, dependent upon absolute faith, that they won adherents. Radical totalitarianism began with Marx.

Mr. Turner's largest contribution, indeed, has been to reveal the firm link between master and disciples. Lenin, for example, was not—as Max Eastman once insisted—a democrat who had extracted the "best" of Marx for practical purposes. He was very much like

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Marx. Like Marx, he attached himself "parasitically" to the Socialist ideal, and from that vantage point was able to denounce all opponents as time-servers, scoundrels, and worse. His unscrupulous use of the charge that socialism had "betrayed" the cause of peace in 1914 furnishes an almost classical illustration of his attitude (pp. 281 *et seq.*). It was, emphatically, an *attitude*, rather than a philosophy, an economic theory, or a set of tactics and strategy, which Marx left as a heritage to socialism—a somber heritage.

"Democracy", Mr. Turner concludes, "is fundamental" (pp. 400 *et seq.*). Happily, he avoids the temptation to repeat the platitudes of democracy. Democracy, he makes it clear, is not to be achieved by affirming its necessity, so much as by clarifying its tasks. The present reviewer finds his book more interesting, and a good deal more instructive, than the confessionals of erstwhile radicals which have recently attracted attention. Deadwood requires sweeping, but that is hardly a substitute for positive reconstruction.

NEW YORK CITY LOUIS FILLER

The Quest for Law. By WILLIAM SEAGLE. New York, Alfred A. Knopf, 1941.—xv, 439, xvii pp. $5.00.

After a short but trenchant survey of current legal theory, Mr. Seagle settles down to the formidable task of studying the different stages through which legal institutions have passed. It is astonishing how, in a book that runs the whole gamut from the beginnings of law to modern capitalist society, the author always succeeds in rising above the merely descriptive level to one of genuine analysis and evaluation. In part, at least, he does this by avoiding both the arid approach of the more recent sociology of law and the older, textbook type of work on jurisprudence.

Seagle follows a loose schematic classification of law into primitive, archaic and mature. Mature law is characterized by the preëminence of the professional lawyer, by the state's monopoly of force, and by the dominant position of the law of obligations derived from individual agreements. As Seagle is himself aware, this is a rather uncertain schematization. Where would one draw the line between the archaic and mature systems, for example, in so far as the rôle of the contract is concerned? But since he employs this classification as a means of clarifying his ideas and not as a foolproof system, no particular harm is done.

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The reader will not always agree with the judgments in the book. Thus, the extent of the recent revival of natural law as a legal weapon of ruling classes against uncomfortable popular majorities, on the one hand, and as justification for the claims of rising classes, on the other hand, is somewhat underestimated. It would be difficult to prove such a cryptic statement as: "the bulk of criminality has always been professional." These are minor points, however, among the many brilliant analyses and happy formulations in chapter after chapter.

Three of Seagle's best contributions may be noted. He has made brilliant use of recent historical and anthropological research in his discussion of the dawn of legal history. Opposing the constructions of Fustel de Coulanges, Maine and others, he scores important points for a more realistic interpretation of primitive communism and for a curb on exaggerations about the influence of religion on the growth of legal institutions. Turning to a later stage, Seagle sees that the "rule of law" is one of the many cloaks for laissez faire; but it is also significant in guaranteeing a "minimum of decency in the social struggle." In the chapter on the monopoly of force, finally, he not only reveals the ever present antagonism between the protective and repressive functions of criminal justice but also develops very convincingly the view that society itself necessarily sets narrow limits to criminological progress, a view, incidentally, which seems to be in the ascendance among students of the subject.

This reviewer has only one serious criticism of the book. One of Seagle's strong points is the way in which he links economic and legal developments. When he arrives at our own period, however, his conceptions become somewhat confused, notably when he speaks of finance capitalism as a sequence to monopoly capitalism. This underlying confusion prevents him from perceiving with sufficient clarity and sharpness those traits which mark off the legal order of competitive capitalism from the law of monopoly capitalism. He seriously overestimates the importance of the contract in contemporary law and continues to consider the law of property as merely a phase of the law of contracts. In view of his own eminently correct analysis of the increasing importance of standardized contracts and of the changes introduced in the structure of contracts by social legislation (this reviewer would avoid the unfortunate expression, "socialization of contract"), it would seem impossible to argue for the continued omnipotence of the contract. Should the contract not

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be considered as a page from the chapter Seagle has aptly named "The Vanishing Points of Jurisprudence"?

The essence of the legal structure of monopolist society, in this reviewer's judgment, is the elimination of contractual elements and the creation of a direct link between the property structure and the administrative order. In his chapter on administrative law, Seagle expresses a premonition of the conservative future of administrative law through the process of "judicialization". It seems that this premonition is already being realized in the administrative organization of property relations, which is steadily assuming the protective function formerly exercised by contract.

Our judgments of the present status of legal institutions, however, must necessarily be very tentative, to say the least, and we should therefore be all the more grateful for this book. Legal myths, whether Romanist, Germanist, or common law, may offer a more enchanting picture. But Seagle has the merit of having written one of the first thoroughly intelligible accounts of the legal past and present.

OTTO KIRCHHEIMER

INSTITUTE OF SOCIAL RESEARCH
NEW YORK CITY

Intellectual America. By OSCAR CARGILL. New York, The Macmillan Company, 1941.—vii, 777 pp. $5.00.

The Democratic Tradition in America. By T. V. SMITH. New York, Farrar and Rinehart, 1941.—xiii, 152 pp. $1.00.

On the face of it the two works here reviewed have little in common. Professor Cargill's book is an exhaustive, and at times exhausting, study in American literature from the end of the nineteenth century to the great depression, and of the European literary movements which influenced, if they did not always inspire, it. Professor Smith's volume is one of the American Government in Action series, edited by Professor Phillips Bradley, and constitutes in effect an historico-philosophical statement of the essential elements in American democratic political thought. It is composed of various parts of Smith's earlier work, revised and roughly organized, to demonstrate his thesis that creative growth, judicious compromise, and a rough and ready equality between citizens have in fact been fundamental in the American past, and must be preserved and vitalized if peaceful change is to continue in the future.

Yet Cargill also is concerned with the democratic way of life, and his objective is not simply to write literary history. Rather, he de-

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sires to create a new science which he designates as "ideodynamics" and defines as "the descriptive study of ideologies and of the forces which they exert." He believes that in the period he covers America went through a great cultural renaissance. In that movement, however, which was influenced largely by French example, there was a considerable cult of decadence and of primitivism, as well as a frequently unhealthy, though, in terms of past propriety, necessary, preoccupation with considerations of sex and of its more perverse manifestations. But the very vitality of American life prevented these preoccupations from resulting in mere despair and lack of direction. Moreover, during this period certain authors revealed a movement toward social consciousness, while even those who, as an avowed intelligentsia, were critical of American democracy and, in Cargill's view, potentially fascist in viewpoint, at least helped to form the major issues which now confront us. To those issues, which Cargill believes will involve a major battle between authoritarians and libertarians, and will produce a glorious future, presumably with the latter triumphant, Mr. Cargill intends to devote a subsequent volume, to which the present one is in essence a not entirely satisfactory preface.

Nevertheless the present work, both in its revelation of the literary and cultural backgrounds of the recent French débâcle, and in its insistent emphasis on the impossibility of a negative attitude of despair in this country, shows that Cargill shares Smith's belief in the dynamic creativity of American life and, at least potentially, in the possibility of an underlying harmony. For behind Smith's specific thesis lurks his essential conviction of the potentialities of the ordinary man on the one hand, and of the lack of omniscience of extraordinary ones on the other. Fundamentally his work is a stimulating plea for a continuous moderation, informed by energy, and undeformed by dogma. He possesses a faith in the possibility of progress through concession under a leadership inspired by ethical convictions, eager for struggle in life, but unwilling to impose narrow views by naked force, and so to betray an essential lack of confidence in a free social existence as itself a vital creator.

Yet, if Cargill shares that faith, his work at once reveals that there have been forces in our tradition not altogether friendly to the democratic harmonization of the ideals of legislators in general, of the judicial philosophy of Holmes, and of the executive theories of Lincoln, and makes clear that, even though the democratic ways

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which Smith praises will triumph in the future, they will do so only after grave challenge and serious struggle against other social philosophies, revealed or emerging in literature, and reflected in the public mind.

THOMAS I. COOK

UNIVERSITY OF WASHINGTON

Our Landed Heritage: The Public Domain, 1776-1936. By ROY M. ROBBINS. Princeton, Princeton University Press, London, Oxford University Press, 1942.—xi, 450 pp. $5.00.

It was possible in the nineteenth century for historians to describe the development of the United States without alluding to corporation finance, soil erosion, or land policies but to the present-day historian such topics loom large. The revulsion against this neglect of such prime issues has produced scores of books on them and the output is increasing. On land policies one has only to mention such well-known names as Treat, Stephenson, Wellington, Sakolski, Akagi, Hibbard, Evans and Schafer to call to mind the scope of this new historical interest. The subject is vast, however, being fundamental to American history, but most of the research thus far accomplished has done little more than to trace the development of the land legislation and to show the various pressure groups which have shaped its growth. Sakolski, it is true, called attention to the extent of speculation in the public lands and revealed the necessity for minute studies of this factor; Akagi studied the town proprietors of New England; Evans traced in generous detail the land and settlement policies of one of the larger agencies which intruded itself between the government and the actual settler; and Schafer undertook on a grandiose scale the preparation of a Domesday Survey of Wisconsin in which the original entries were to be platted and changes in ownership and tenure were to be investigated. Although the Domesday Survey had to be sharply modified, the results were most revealing.

The latest book to be added to this impressive list is by Professor Roy Robbins of Butler University. It borrows some of the best features from the preceding volumes, adds much that is good to them; but also neglects some of their important contributions and aids in perpetuating certain misconceptions of land policy. Professor Robbins has used a wide variety of sources, chiefly printed, though they are somewhat uneven in character and distribution. The freshest material he has gleaned is from far western newspapers and bears on the conservation question for the period after 1900. He has made

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good use of some of the commercial reviews of the nineteenth century and has relied heavily, perhaps too heavily, on Horace Greeley's *New York Tribune*. Professor Robbins is an expert in weaving together in his narrative the strands which made western development, and his chapters which deal with "Luring the European", "Industry Moves Westward", and "Boom Times and Panic" are, on the whole, superlatively done. Indeed, one is constantly impressed with the author's capacity for description and synthesis.

One may cavil at the subtitle, for the book is scarcely a history of the Public Domain. To merit such a title it would have to give careful attention to the way the Public Domain passed into the hands of grantees, whether corporations, land companies, lumbermen, ranchers, individual speculators, plantation owners or actual settlers. While there is some detail on railroad land grants in general, one does not find concrete information, for example, concerning the way the 64,000,000 acres of swamp lands passed into private hands or the manner in which the military bounty land warrants and various forms of scrip to the amount of 80,000,000 acres were used to acquire huge holdings of land. A problem that Hibbard seriously confused and which is in no way explained here is that relating to the change from a period of unrestricted land acquisition to one in which the amount of land one could legally acquire was sharply limited. Up to 1862 and even later all land which had been surveyed and opened to cash entry unless thereafter withdrawn could be acquired in unlimited amount by any person or corporation possessing the requisite capital. Unrestricted cash entries were permitted as late as 1888 in certain states upon the "offered" lands but newly surveyed lands were, in most instances, not open to "cash entry" at all. Both Robbins and Hibbard have failed to grasp this issue and assume wrongly that large-scale acquisitions in the 'seventies and 'eighties were illegal.

Our Landed Heritage contains numerous errors of fact or interpretation: 8,000,000 acres were not sold at the Green Bay office in 1835 (p. 62); it is highly debatable that the preëmption act was "the most important agrarian measure ever passed by Congress" (p. 91); Chicago was connected by rail with the East in 1852, not 1853 (p. 124); Congress did not make grants to railroads but to states for the aid of railroads in 1856 and 1857 (p. 147); settlers did not avoid the swamp lands because of the fear of floods but because of drainage difficulties (p. 154); the mileage of the Illinois Central and the acreage of its land grant are misstated (p. 162); the Kansas-Nebraska Act did not repeal the Indian Intercourse Act (p. 174); Jonathan Sturges (not Sturgis) is confused with Solomon

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Sturges (p. 194); Scully *was* an alien until legislation directed at him forced him to take out citizenship (p. 274).

While *Our Landed Heritage* may not merit the praise so fulsomely offered on the jacket by a distinguished professor of American history, it does extend our knowledge of American land policy and the forces that shaped it. Its chief contribution is the description of western development, with its "boom or bust" cycle, in which the story of land policies—somewhat conventional, it is true—is given an admirable setting.

PAUL W. GATES

CORNELL UNIVERSITY

International Executive Agreements: Democratic Procedure under the Constitution of the United States. By WALLACE MCCLURE. New York, Columbia University Press, 1941. — xxii, 449 pp. $4.75.

This study by the Assistant Chief of the Treaty Division of the Department of State is intended to demonstrate that the making of treaties by and with the advice and consent of two thirds of the Senate is an undemocratic and outmoded procedure, and that it should be superseded by the executive agreement (p. 387). Somewhat ambiguously the term "executive agreement" as used by this and other writers includes every effective international compact not approved by the Senate under the two-thirds rule; yet in the discussion it is necessary to distinguish between what the executive may do unaided and what he may do best only in coöperation with the legislative branch. It is the executive agreement in the latter sense which Mr. McClure advocates. "There is nothing that can be done by treaty", he concludes, "that cannot be done by Congress-confirmed executive agreement, which . . . is simply a democratic treaty—a treaty enacted through democratic processes" (p. 387).

The case for executive power in foreign relations rests upon several independent but concurring arguments. Although not in just this order, the author's contention runs somewhat as follows: The President of the United States, as heir of British tradition, was invested by the Constitution with full executive powers, except as specifically abridged. Control of foreign relations therefore pertains to the executive, the check of assent by the Senate being added because of the eighteenth-century belief in the necessity of checks and balances. But the association of the Senate with the President did not preclude the making of international agreements by other procedures. While

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no other method is actually mentioned in the Constitution, the antecedent history and the nature of the executive power imply alternative courses, and from the presidency of Washington on, with increasing frequency, the executive agreement has been resorted to.

The usage has given an interpretation to the Constitution which the judicial department has recognized. Consequently, says Mr. McClure, it would seem that the President "may make executive agreements on any subject upon which international acts are made" (p. 315). Nor is he limited to the enforcement of acts of Congress, because he has independent powers within the sphere of international relations. Yet owing to "the fundamental supremacy of legislation" in a popular government, the wise course, where executive agreements deal with subjects upon which Congress may be deemed competent to act, is to obtain the passage of coöperating legislation "clearing the way for the uncontested enforcement" of such agreements (p. 370). The *legal necessity* of such legislation is a less significant question than its policy, for it is desirable to rest international policy on a broadly democratic base, best obtained through congressional study and debate (pp. 372-73). Nevertheless the President's hands must not be tied. Under modern conditions, often requiring almost instantaneous decision, the desideratum is to "combine the maximum of mobility with the maximum of final responsibility to the electorate" (p. 381). "The mode of treaty making set forth in the Constitution offers a minimum of both these qualities." It blocks democratic action by permitting minority control, and occasions dangerous delays through filibusters and kindred practices. "The reasons that animated the makers of the Constitution have disappeared" (p. 385), and this provision of our Constitution has not been borrowed by any other country.

No brief review can do justice to this study. The author has examined substantially all of the important literature of this and related topics, and has neglected no phase of his subject. Indeed, the critic might hold that the discussion is needlessly comprehensive, including much collateral although not quite irrelevant material. Fault might also be found with the organization of the matter. The reader has no very clear vision of the goal of the argument until he has gone far into the volume. Nevertheless the pains required to digest the contents are well repaid, and the applications of the conclusions to the international and political problems of today and tomorrow are of obvious significance.

HOMER C. HOCKETT

THE OHIO STATE UNIVERSITY

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The Treaty of Washington, 1871: A Study in Imperial History. By GOLDWIN SMITH. Ithaca, Cornell University Press, 1941.—xiii, 134 pp. $2.00.

During recent years increasing realization of close interdependence in the national interests of the United States, Great Britain and Canada has been reflected in a number of investigations of the Treaty of Washington and its aftermaths, and of Anglo-American relations about then and in the early years of this century. Dr. Smith's study touches upon these matters, but, as its sub-title indicates, is primarily a consideration of the Washington negotiations as an episode in the development of Dominion status. L. B. Shippee in his *Canadian-American Relations, 1849-1874* (New Haven, 1939) had already told most of the story in a larger setting than Dr. Smith provides, but he did not venture greatly into the matter of its imperial implications.

The volume under review is a well-written and thoughtful analysis of the complications which ensued at and after an Anglo-American conference where one of the five British plenipotentiaries was the Prime Minister of Canada, and when, at Westminster, the Gladstone government was unconsciously bridging the gap between Little Englandism and a rising tide of imperialism. In effect, Great Britain secured Canadian assent to the settlement which she desired with the United States largely by guaranteeing a £2,500,000 Canadian loan for transportation purposes. In this way Sir John Macdonald's hand was strengthened sufficiently to enable his government to ratify a treaty which had ignored Canadian claims against the United States for the Fenian Raids, and which seemed to have sold the Canadian inshore fisheries for a pittance. So complicated an affair at so transitional a time in British imperial development obviously could not lend itself to assured decisions about its significance in Canadian national development, and in his chapter of conclusions Dr. Smith wisely gives the incident its special place in the long train of events rather than ascribes unique importance to it. Since he is a Canadian, his study shows a greater ease and certainty than Shippee's in its judgments concerning Canadian men and events. It also reveals the reprehensible betrayal of the Canadian Prime Minister's confidences to the British commissioners at Washington, by Lord Lisgar, the Canadian Governor General. An interesting footnote (p. 96) demonstrates that Macdonald anticipated Joseph Chamberlain by many years in the desire for an imperial free-trading unit. New and sig-

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nificant information is provided concerning the influential Anglo-American go-between, Sir John Rose.

A few criticisms seem in order. It is odd, to say the least, that the book contains neither an explicit description of the principal provisions of the treaty nor an appendix containing those articles of it most relevant to the subject in hand. Fear played a substantial, if not generally admitted, part in bringing about Australian federation (p. xii). The Reciprocity Treaty of 1854 was only partially the result of American desire for free access to the North Atlantic fisheries (p. 4). Indeed there is too great neglect, throughout this study, of the St. Lawrence waterway and of the rôle of the railway in North America of the time. Finally, while it is understandable that the author of a monograph which is based solidly on extensive acquaintance with the American, British and Canadian primary sources might be anxious to make this plain, it seems desirable that he should also indicate the excellent scholarship of others in subjects closely related to his own and bearing upon his conclusions. This is particularly true in what might be called the newly tilled historical field of Anglo-American-Canadian relations, where readers often need assistance in discovering recent scholarship. Dr. Smith makes slight reference to, and use of, Allan Nevins' valuable *Hamilton Fish*, but he never mentions Shippee's book, which is even more cogent to his own theme. Among other scholars to whose substantial work attention might profitably have been drawn are H. A. Innis, D. C. Masters, Miss H. G. Macdonald, R. L. Schuyler, J. P. Smith, C. P. Stacey and C. C. Tansill (on Santo Domingo).

J. B. BREBNER

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BOOK NOTES

Professor Pendleton Herring has been one of the few American scholars to concern himself with military problems, and the appearance of his volume, *The Impact of War: Our American Democracy Under Arms* (New York and Toronto, Farrar & Rinehart, Inc., 1941; ix, 306 pp. $2.50), on the eve of our participation in a total war on a global scale was timely and fortunate. While it does not fill the long-felt need for an adequate treatment of American military policy, it does provide a basis on which to estimate the capacity of our political structure to handle military problems and to meet the impact of war. What the volume lacks in internal organization and completeness, it makes up in suggestiveness, clarity of expression, and balanced judgment. As a discriminating political scientist, Professor Herring knows that "military integrity is the greatest imperative in democratic survival." He does not share the view (widespread before December 7, 1941) that the development of great military power necessarily means the end of our free institutions. Indeed, he frankly envisages the possible future necessity of maintaining a powerful military force as part of the normal structure of our society. Admitting the shortcomings of past military administration, he feels that the United States has made great progress toward a more efficient organization for war administration, that previous wars have clarified the position of the president as commander-in-chief, that Congress deals with military affairs with far greater understanding and insight than was formerly the case, and that we have profited immensely by the experience of the first World War in the matter of supply. While conceding that the totalitarian states enjoy great initial advantages in war administration arising from their system of unified controls, the author sees even greater potential advantages in the democratic system of war administration. What the totalitarian governments gain through unity of control they may ultimately lose through rigidity. Since the democratic system of war administration is based on civilian control of military matters and rests on the consent of the governed, the "door to change is always ajar". In a long war these factors may prove to be decisive. His chapters on the place of the army in national life, on the organization of the war depart-

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ment, and on the way Congress deals with military problems are recommended as being the best available at this time. It is to be hoped that this provocative book will encourage other students to fill in the gaps in the fundamental body of knowledge about our military establishments. Not the least of Professor Herring's achievements has been to survey the field in a thoroughly objective fashion, and to have pointed out these gaps with discernment and clarity. — H. A. DEWEERD, Institute for Advanced Study, Princeton, N. J.

In *The British Empire, 1815-1939* (New York and London, Harper & Brothers, 1941; xx, 850 pp. $4.00) a distinguished scholar, Paul Knaplund, writes an accurate textbook — maps, bibliography and index are all that can be asked for. The book is well proportioned, both chronologically and geographically. There is equality of treatment all along the line; the dominions, the West Indies, the African dependencies receive the number of pages to which they are entitled. Professor Knaplund is a careful scholar, and if there are any errors of fact in his book they have escaped this reviewer. The book is clear and concise in regard to all constitutional and economic problems. It is a little redundant, perhaps, with statistics; but then they do no harm. The book is not colorful; it could not very well be so while at the same time containing so much factual knowledge. It is unfortunate, I think, that textbook writers lay so much stress on multitudinous dates and facts; for one result is that the significance of the latter is frequently slighted. Thus, for instance, in dealing with a famous document like Macaulay's Minute on Indian education, one might better elaborate on Macaulay's point of view, examining it from both the British and Indian angles, and omit statistical data in regard to Indian universities. Very little space is devoted to military history. Less than half a page is given to Gordon at Khartoum and to the expedition for his relief. There is no mention of Lord Roberts' astonishing march through southern Afghanistan, and the siege of Lucknow gets one line. The importance of military history has been overemphasized in the past, but that is no reason for neglecting it well nigh altogether. A good deal of time, energy, thought and expense was devoted to military activity in the Empire. The history of it deserves more space than Professor Knaplund allows. Particularly true is this of the Boer War. Because of that conflict, which shook the foundations of the Empire, the Union of South Africa is very lukewarm toward the Empire today; so much so that a change of eight votes in the South African Parliament would have kept the Union out of the second World War. Surely

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the Boer War deserves more than a scant two pages in a history of the Empire since 1815.—WALTER P. HALL, Princeton University.

Professor Albert B. Corey's volume, *The Crisis of 1830-1842 in Canadian-American Relations* (New Haven, Yale University Press; Toronto, The Ryerson Press; London, Oxford University Press, for the Carnegie Endowment for International Peace, 1941; xvii, 203 pp. $2.50), presents a fresh approach to what for Canadians at least is the rather well-worn story of the provincial rebellions of 1837. Professory Corey is not concerned with the rebellions themselves but with the international consequences which flowed from them and from the well-meant efforts of Americans to assist the Canadian rebels in their struggle for freedom. Among these consequences were the actual invasion of British North American territory by American patriots; retaliatory official pursuits by the Canadians; efforts by the United States to protect its neutrality and by the Canadas to increase their defenses; and meetings, agitation, drilling and general excitement on both sides of the border. Obviously the conduct of government policy must be a central theme in such a story; but Professor Corey has placed his discussion of official Canadian-American relations in the setting of a much broader analysis of opinions and attitudes on both sides of the border. The period seems to offer a particularly good sample of the various opinions, including purely negative opinions, which made up the traditional nineteenth-century American attitude toward British North America; and since obviously these American views about Canada played a far more important part in the determination of events than Canadian views about the United States, Professor Corey justifiably devotes more space to them. Interestingly enough, both the American government and the American people seem to have been a good deal less truculent in this period than in the comparable crisis of 1861-71; and on the British North American side, Lord Durham appears to have acted with real moderation. Canadians are sometimes disposed to believe that it is the imperial relationship which has bedeviled their contacts with the United States; but there is at least some ground for the belief that the victory of American nationalism in the Civil War and the rise of Canadian nationalism in Confederation produced a real deterioration in Canadian-American relations which has lasted almost down to the present day. Professor Corey's materials are many and varied and his analysis of the complex elements in a tense and rapidly changing international situation seems to this reviewer to have been well done. —D. G. CREIGHTON, University of Toronto.

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The British Empire in Australia: An Economic History, 1834-1939 (Melbourne, Melbourne University Press in association with Oxford University Press, Melbourne, London, New York, etc., 1941; xxxii, 529 pp. 21*s.*), by Brian Fitzpatrick, is a continuation of the author's earlier volume, *British Imperialism and Australia, 1783-1833* (London, George Allen and Unwin, 1939). Although it is asserted that "the theme of both volumes is the history of Australian development in relation to British imperial expansion" (p. v), the main emphasis is placed on Australian economic aspects with a rather superficial treatment of imperial relations. While the book is hardly comparable with Shann's brilliant *Economic History of Australia* (1930) either in style or in treatment of subject matter, it has the advantage of recency and includes considerable unused material. No bibliography is included, but the volume contains evidence of extensive research. Several chapter appendixes, together with an index, add to the usefulness of the study. Turning from make-up to content, one finds that the book is developed chronologically and contains an introduction dealing with statistical evidence of nineteenth-century social-economic change, an account of British and Australian expansion in the 1830's, the position of the colony's pastoral economy in the imperial pattern, the consequences of the gold discoveries, and the increasing economic diversification of Australasia in the generation from 1860 to 1890. The volume includes an account of labor relations as industrialism progressed, and of current economic development after the achievement of federation and the rise of present-day social and economic problems. In addition to these topics, one should point out that the author has done a good job in clarifying the frequently misunderstood Australian attempt to adjust labor-employer relations by means of arbitration. He has demonstrated that only a part of labor's problems were dealt with by legal machinery and that definite limitations were placed on the classes of cases so handled. For example, the powerful Miners' Federation was built up outside the arbitration courts, and this reviewer has vivid memories of the grave situation produced by the serious miners' strike of 1940 when the nation was at war. The author concludes that it is futile to attempt to pass judgment on the system as a whole. American readers will be interested not only in this aspect of Australian history, but also in the comparisons drawn between that nation's policies in regard to public land disposal, railroad development, public services, and those of the United States. On the whole the study is useful and timely.—MAUD P. LAUGHLIN, Washington, D. C.

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American agriculture today is one of the key sectors as this nation speeds up its war effort. Without its vast output of food, fiber and raw materials of every sort, we would have but little chance for survival, let alone victory, in the world conflict. Directing the efforts of our seven million farmers is the wonderfully complex governmental mechanism known as the Department of Agriculture, and it is this mechanism which Professor John M. Gaus and Mr. Leon O. Wolcott have examined in their enlightening work, *Public Administration and the United States Department of Agriculture* (Chicago, Public Administration Service, 1940; xii, 534 pp. $4.50), with a chapter by Verne B. Lewis. Written primarily for the technician in public administration as a case study of a government department's evolution and present mode of operation, this volume also offers valuable material for the economist and the sociologist concerned with government policy and its execution in the field — as distinct from its avowed intention. Agricultural economists and rural sociologists, particularly, will learn much in these pages. The first of the book's three parts describes the evolution of the Department from the seed-distributing agency of 1862 to the powerful coördinator and director of American farm life that it is today. The problems encountered, the solutions tried, the mistakes and the successes—all these are sketched carefully and related to the steady growth of the Department. This growth, the authors clearly indicate, was due primarily to the fact that the Department filled real needs in the national life, enabling our farmers to grow two blades of grass where one had grown before and more lately helping them to sell the extra blades too. Part II is perhaps the most interesting portion of the book for the general reader as well as the technician. Here the specific sections of the Department, those dealing with land use, credit, rural life, etc., are examined in detail, first as regards their birth and growth because of farm pressure, and then as regards their present functioning, both in Washington and in the field. The rôle of the New Deal measures in expanding their activities is noted carefully, but the authors also show that the expansion of the 1930's only carried forward trends and projects which had had their beginnings in earlier decades. Part III presents a picture of the Department in late 1939 and early 1940, stressing its general staff and its auxiliary agencies, and concluding with an illuminating discussion of the Department's rôle in the light of the problems then faced. In view of the recent preoccupation with farm policy, it is interesting to read the authors' declaration: "Broadly conceived, the Depart-

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ment's major task is to canalize the drive and energy of pressure groups in agriculture so that they will be less harmful to our economy generally and will contribute to the best use of our national resources, to the most satisfactory rural life, and to the most economic supply of agricultural products most useful to the consumer." Here is a real measuring-stick against which to measure the Department's functioning, and to correct its shortcoming. Professor Gaus and Mr. Wolcott have written a model study which, it is to be hoped, will be an inspiration for similar work on the other parts of our complex governmental machine. — HARRY SCHWARTZ, Brooklyn College.

A History of Chile, by Luis Galdames, translated and edited by Isaac Joslin Cox (Chapel Hill, The University of North Carolina Press, 1941; xv, 565 pp. $5.00), is the fourth volume to appear in the Inter-American Historical Series which was planned to bring to English readers outstanding histories of our southern neighbors. The work chosen for Chile, written by Luis Galdames, is based in large part on the extensive and excellent earlier histories of Diego Barros Arana. It has long been popular in Chile and has appeared in numerous editions. The author has given an admirable interpretation of his people and his country and portrayed the development which has been achieved. Dr. Cox, the translator, is a devoted student of Chilean history and has produced in collaboration with his wife, Grace Elizabeth Cox, a readable and correct English version. The distribution of the space to the various periods of Chilean history is most satisfactory. The Spanish colonial régime, the struggle for independence and the development of republican Chile are treated in turn. The first heading includes accounts of the natives and the Spaniards, the stirring epic of conquest, and the more prosaic process of colonial organization and growth. The background of the movement for independence and the military conflict which achieved it cover the second period. The final national phase is developed in various chapters which trace the political events of the four epochs: Dictatorship, 1817-1826; Presidential control, 1831-1891; Parliamentary régime, 1891-1925; and Executive supremacy, 1925 to date. Four chapters scattered through the volume deserve particular notice, since they give a special character and tone to the work. They are "Colonial Government and Society", "Chilean Society in 1830", "Cultural and Social Progress" (1861-1891), and "Contemporary Social Development". These discuss in detail the social, intellec-

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tual, economic, educational and religious life of the Chilean people during the successive periods. They reflect the achievement and development of the nation. At the close of the volume there is also a chapter devoted to the problems of foreign relations. An added feature is a collection of biographical sketches (pp. 441-535) of the leading Chileans who are mentioned in the history. This is of particular value to the foreign reader who naturally is not as familiar with the personages as are the Chileans. A statement regarding the life and work of Galdames is included in the introduction. Numerous notes are added by the translator which are helpful for further study. A bibliographical essay of selected publications is appended (pp. 537-544), and the book is illustrated particularly with photographs of outstanding leaders. There are also four maps and a good index. Maintaining the high standard of the previous volumes of the series, this work is another contribution to the development of closer cultural relations between the United States and Latin America. Professor Cox and the publishers may well feel a high degree of satisfaction in having presented this Chilean history to the American public.—ROSCOE R. HILL, Department of State.

Boundaries, Possessions, and Conflicts in Central and North America and the Caribbean (Cambridge, Harvard University Press, 1941; xiv, 432 pp. $4.50) is a companion volume to Professor Gordon Ireland's *Boundaries, Possessions, and Conflicts in South America,* and the method of procedure is the same. The history of every international boundary on the North American continent and in the Caribbean area is traced from the colonial period to the present, and copious extracts from the pertinent treaties and other documents accompany the text. The book is divided into three parts, or "chapters", the first dealing with boundary disputes and adjustments, the second with island possessions, and the third being merely a list of treaty engagements existing at the present time. The style of the book is strictly recitative, strictly legal, and strictly devoid of imagination. A series of simple, clear maps and diagrams adds greatly to the clarity of the narrative. A good example of the treatments given the problems discussed is that dealing with the boundary between the Dominican Republic and Haiti. The essential facts in the history of these two republics are given, followed by a review of the history of the boundary from 1630, when the French and Spanish governors agreed upon the Rebouc River as the dividing line, to the tragic border riots of 1937 and the treaty of 1938. Lengthy excerpts from

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treaties and constitutions are given to document the story, which ends with the hope "that the conflicts will gradually die out, and the neighbors be able to live peaceably together." Practically no account is taken of the sociological problem involved, which presents the ghastly fear of the white Dominicans of being swamped by the terrifying expansion of the negro population of Haiti. This is a bare narrative of diplomatic and legal action, nothing more. In his treatment of the boundary between the United States and Canada, Mr. Ireland, curiously enough, begins with the treaty of Paris, September 3, 1783, by which the independence of the United States was recognized by Great Britain. He thus ignores the already century-old boundary disputes between the English colonies and the French. This omission seems particularly unfortunate in view of the fact that the boundary of the United States agreed upon in 1783 is hardly to be understood, even in its terms, without consideration of the diplomatic and colonial discussions of the Canadian boundary before and after the Seven Years' War. In general, the book is severely technical, accurate, dull and unreadable. As a handbook for the student of the territorial aspects of inter-American diplomacy, however, it will probably prove to be extremely useful. — MAX SAVELLE, Stanford University.

Relations between the United States and Latin America in the opening years of the nineteenth century have finally been described in a volume which "brings together the results of many monographs published in the past generation and is also based upon an extensive study of the sources." This book—*The United States and the Independence of Latin America, 1800-1830* (Baltimore, The Johns Hopkins Press, 1941; xx, 632 pp. $3.75) by Arthur Preston Whitaker—reconstructs for the reader the state of public and governmental opinion toward Latin America during the critical years from 1800 to 1830. A generation of world-wide war and new political ideas had opened Latin America to North American eyes, but there was no clear-cut outlook as to the policy to be applied by the United States. Professor Whitaker has organized his Johns Hopkins lectures into a valuable, thoroughly documented account of North American interest in Latin American independence. There are two important contributions to our knowledge of that period. As the author has stated, in his introduction, "although the main outlines of the story are, of course, already familiar, the present study is the first synthesis of the subject." What seems to the reviewer particularly worthy of

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mention is the setting in which the story is placed: newspapers, magazines, scientific societies throughout the United States contributed to what the author prefers to call the "climate of opinion" toward Spanish America. The other contribution is based upon the analysis of the factors leading to the Declaration of Monroe in 1823. In this connection, Professor Whitaker has been guided by the *Memoirs* of John Quincy Adams to rather obscure fears of British policy in the New World. There is a good deal of support, marshaled from the papers of Richard Rush, United States Minister to Great Britain from 1817 to 1825, for American concern over British policy during those years. It would seem, however, that contemporary fears of intervention did not evoke the Doctrine, but that sooner or later our interest and relations with Spanish America would have led the government to such a statement of policy. — HARRY BERNSTEIN, The College of the City of New York.

The 1942 edition of the *Political Handbook of the World* (New York, Harper & Brothers for the Council on Foreign Relations, 1942; 202 pp. $2.50), again ably edited by Walter H. Mallory, contains the usual valuable information concerning the governments, parliaments, political parties and leaders, and press of all the countries of the world. The states represented are the same ones that appeared in the volume for 1941, with no entries for Albania, Estonia, Ethiopia, Latvia and Lithuania. The listing of the relevant information concerning the several European governments in exile and relating to such regions as the so-called Protectorate of Bohemia and Moravia and the Republic of Slovakia is of the greatest help as well as interest to both the careful student and the intelligent reader of world affairs. The continued inclusion, moreover, of such items as the new French constitutional laws and the successive German territorial annexations is especially commendable. In some ways the most striking pages of the book are those devoted to the League of Nations. It is somewhat of a shock to note the cold fact that, technically, there are still forty-eight members of the Geneva society, though two of these—France and Romania—last year gave the required two years' notice of intention to withdraw. By 1943, barring further changes, Great Britain will be the only state left with a permanent seat on the League Council! And now once again, as in previous reviews, many thanks to Mr. Mallory and to the Council on Foreign Relations for the continued publication of what appears to me to be the most convenient and usable political reference work available.—WALTER CONSUELO LANGSAM, Union College.

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Those who have followed the interminable polemics on monopoly theory will be interested in *Monopolistic Competition and General Equilibrium Theory* (Cambridge, Harvard University Press, 1940; xiii, 197 pp. $2.50) by Robert Triffin. Its main significance lies in its classification of market positions; it must be regarded for its methodological rather than problem-solving import. The contention is that economics has too long concentrated on the industry and its product rather than on the interrelations among firms and products. Triffin is perhaps unduly critical of Marshall and makes a stronger case than exists for following Walras and Pareto along "general equilibrium" lines. Marshall would not suffer so by contrast. Emphasizing that firms can generally only produce substitutes for one another's products, their mutual interdependence becomes fundamental. Triffin thus characterizes market positions by the degree of price and output interrelatedness, from complete independence to full interdependence (p. 104). Readers, however, will recoil in fear when they meet such terminological monsters as "heteropoly" and "homeopsony" (p. 142). Fortunately Triffin soon forgets these. Still, this third chapter best evidences his analytic acumen and is most likely to be referred to. Preceding it there is a tedious, prolix restatement of a by-gone terminological controversy; it would have been better left interred, or condensed, in the light of his own constructive achievement. But of interest in these initial chapters is the statement of Stackelberg's and Pareto's ideas, and the flowering of the subjective demand curve. Triffin might have gone on to relate it to the market curve despite his assertion (p. 66) that it is extraneous to static analysis. If it is, the entire distinction loses point. A subjective definition of a commodity is also offered (p. 91). In a chapter on cost curves there are some interesting diagrams; those which relate the price of one firm to the sales of another (figs. II and III) are particularly novel and instructive. The book would be improved with less brash statements than, for example, the imputation to Mrs. Robinson of not even "comprehending the nature of the problem to be tackled" (p. 70), especially when, the present writer would argue, her procedure is faultless. Similarly, the book opens proclaiming that it is necessary "to carry the whole subject into new and unchartered lands" (p. 3). Footnotes, it must be said, are extremely repetitious and technically poor; also, identical quotations are reiterated without awareness. Withal, economists will find it a useful adjunct of a theoretical library and well worth reading. — SIDNEY WEINTRAUB, St. John's University.

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Pursuant to the Federal Crop Insurance Act of 1938, a 75 per cent (and 50 per cent) coverage against all sorts of damage by natural forces was offered to wheat producers on the 1939, 1940 and 1941 harvests. Though farmers were at first rather apathetic, nearly 25 per cent of the acreage effectively eligible had been signed up with the FCIC in 1941. However, disturbingly large underwriting losses have been incurred. In 1939 about 64 per cent and in 1940 and 1941 approximately 70 per cent of the claims paid were provided for by the premiums collected, and this despite the fact that the yields per acre stood higher in every one of the three years than the fifteen-year average. Thus, a satisfactory volume of business was secured, but expectations that reserves would be accumulated in good crop years have not been realized. A careful and probing analysis of these and other pertinent facts and figures leads the author of the study under review—*Federal Crop Insurance in Operation*, by J. C. Clendenin (Wheat Studies of the Food Research Institute, Vol. XVIII, No. 6, Stanford University, 1942; pp. 229-290. $1.25)—to the following major conclusions. (1) The decision of the authorities not to insure dollar values, though diminishing the extent of the FCIC protection of farm incomes, was unquestionably wise, since price risks appear not to be insurable on a sound basis. (2) Though all classes of farmers have participated, the interest in crop insurance has been greater in areas with moderate risks and premiums than in those where protection is needed most. (3) The losses which have been incurred even in years with comparatively high yields are in large part due to imperfections in actuarial data and methods, and to adverse selection of risks. (4) While a subsidy to permit the insurance system to mature is warranted within reasonable limits, indefinite continuation of losses on the scale of the last three years would be inexcusable. (5) The close tie-up of the FCIC with the AAA worked to the detriment of the former. Instead, the FCIC should enjoy independence in policy-making. By the same token, the FCIC should not be made, as in the past, to serve the ends of the ever-normal-granary program. (6) While an over-all compulsion would be undesirable, strong pressure should be brought to bear upon farmers of high risk areas to sign up with the FCIC. In his final summary, the author says "that federal crop insurance has not yet proved that it can provide enough farm security, on a sufficiently equitable and satisfactory basis, to justify its cost. But it has not yet proved its inability to do these things."—RUDOLF FREUND, University of Virginia.

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Thanks to Olga Hess Gankin and H. H. Fisher, editors of *The Bolsheviks and the World War: The Origin of the Third International* (Stanford University, Stanford University Press; London, Oxford University Press, 1940; xviii, 856 pp. $6.00), the basic materials of the labor movement, particularly of its left wing, during the first World War have now been made available. The editors have drawn not only on the rich collection in the Hoover War Library but also on the documents in other institutions throughout the world. The result is an indispensable source book for students of labor history. Prefacing each chapter or section with explanatory, historical surveys, they have traced the splits in the Russian socialist movement, the birth of the Bolshevik Party, and the controversies on the war problem in the Second International before 1914. But the bulk of the book is devoted to the activities of the Bolsheviks during the first World War, for it was this party under Lenin, operating through small nuclei not only in Russia but also internationally, that became the centripetal force of the Third International. In the present tome one can find practically all the significant documents on the dissensions among the various socialist wings from 1914 to 1918, on the controversies among the Bolsheviks proper, and on the three Zimmerwaldian Conferences which were the forerunners of the first congress of the Third International. In the light of events in recent years, it is illuminating to read Lenin's severe indictment of Trotsky's dual politics and of the "imperialistic economism" of the Bukharin-Piatakov group. Trotsky, according to a letter by Lenin in February 1917, indulged in "Left phrases" while he was in "a bloc with the Rights against the aim of the 'Lefts'!!" And "the scornful attitude of 'imperialist economism' toward democracy", wrote Lenin, "constitutes one of these forms of *depression*, or *suppression*, of human reasoning by the war." Bukharin, in Lenin's view, was "(1) gullible to gossip and (2) devilishly *unstable* in politics." We are indeed grateful to the two editors for appending to the documents twenty-four pages of chronology of the crucial events in the socialist movement from 1848 to 1918, forty-seven pages of biographical notes on leading personalities in this movement, and forty-two pages of valuable bibliography, including a list of periodicals and newspapers, of which each citation has been enriched by a brief description of its history. We regret the omission of such French publications as *La Vague, Ce qu'il faut dire, L'Ecole de la fédération*, and *Union des Métaux*, unless the editors have planned to include them in their forthcoming volume, *The Bolsheviks and World Revolution.*

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But the absence of some titles cannot mar the scholarly character of the book. It is a storehouse of information on the origin of the Third International.—SAMUEL BERNSTEIN, New York City.

"Isn't grandpa a swell guy!" exclaimed the ten-year-old granddaughter of the author of this autobiography—*Life and Law* (Boston, Little, Brown and Company, 1941; xiii, 347 pp. $4.00) by Samuel Williston. Had she written the book we might have had a more faithful portrait of one of the grand old men of Harvard Law School. What we have instead is the shell of a book, a lugubrious narrative of the events of a life that was rarely exciting but never quite as doleful as it appears in the telling. "There is something very bleak and bare in that essay", commented classmate George Kittredge on one of Williston's Harvard themes. The same may be said of this wintry venture into memoir writing. Williston is a great legal scholar, a tireless leader in the fight for uniformity in the business laws of the forty-eight states, the learned and philosophic author of the *Restatement of Contracts*. His best known work is his treatise on contracts first published in four volumes in 1919. It not only won the immediate approval of bench and bar, but caught the imagination of a poetic contributor to F.P.A.'s "Conning Tower". "The lucid and emphatic style", said the rhymster, "will capture you and hold you spellbound." When the American Bar Association decided to give, "from time to time", a gold medal "for conspicuous service to American jurisprudence", Williston was the first recipient of the award. Williston was born in 1861. He began to teach at Harvard in 1890 when Langdell still was dean and Thayer, Gray and Ames were the luminaries of the faculty of law. In 1938 he retired as professor emeritus. Williston never agreed with Langdell that the law consists essentially of a set of principles to be derived by induction from the dusty volumes of past reports. Nor did he go as far as Llewellyn of Columbia in the opposite direction. Typically he steered a middle course between the need for legal generalizations as guides to action and the need to adjust the law to changing social conditions. Williston would be the last to deny his conservatism, probably the last to desert it. He was admired by his students and his colleagues, came into contact with many of the great names of his times and impressed them only less than he was himself impressed. Perhaps either a former student or colleague should have reviewed this life of a man from whose writing all life has been suppressed.—WILLIAM MILLER, New York University.

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Professor Robert Ergang's *The Potsdam Führer: Frederick William I, Father of Prussian Militarism* (New York, Columbia University Press, 1941; 290 pp. $3.00) is a well-written and competent biographical sketch based on all available printed sources and sound secondary works. It is to the great credit of the author that he has successfully resisted the temptation to make either obvious or else far-fetched comparisons with a later Führer of less noble birth—and that despite the tie-up suggested by the title. The thirteen chapters of the volume in reality are thirteen tableaux, each with Frederick William as its central figure and each relating to another of his manifold activities: the builder of an army, the creator of an efficient bureaucracy, the judicial reformer, the mercantilist, the diplomatist, the harsh family man. In every instance there is a striking delineation of the dominant traits of the hard-working, quick-tempered, irascible, stubborn, religious, patriotic Hohenzollern despot. Perhaps because the individual pictures are so distinctly drawn, the reader finishes the book satisfied, and yet not satisfied. He is thoroughly familiar with Frederick William's views and policies in each of a dozen spheres, and yet he does not really know the man. Nonetheless, the book presents far and away the most convenient and usable survey of an important reign, and one which hitherto has been neglected in English historical writing. One is made keenly aware, in reading these pages, that the most efficient and most ruthless and most obnoxious attributes which we popularly group under the descriptive term "Prussian" today are much older than the Germany either of Adolf Hitler or of William II. Every one of these characteristics was clearly manifested by Frederick William two centuries ago. Further, and I think that Professor Ergang's book brings this out perhaps without his being aware thereof, even Frederick William was not the originator of these "Prussian" methods. Some of his most important policies and reforms, those which have left their impress to this day, actually were outlined or forecast by his predecessors. Only it remained for Frederick William to put them into force.—WALTER CONSUELO LANGSAM, Union College.

The Second Yearbook of Research and Statistical Methodology: Books and Reviews (Highland Park, New Jersey, The Gryphon Press, 1941; xx, 383 pp. $5.00) by Oscar Krisen Buros continues with increasing success to carry out the worth-while aims of this series of research guidebooks inaugurated in 1938 with the publication of *Research and Statistical Methodology, 1933-1938* which was

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reviewed in this journal in December 1940. The purpose of the series, as many research workers and teachers of statistical methods may know, is to present informed opinion concerning all recent books on research and statistics. This opinion is gathered from reviews appearing in several hundred professional journals. The reviews are summarized carefully and honestly, printed in readable type, and competently indexed. There is no question in this writer's mind concerning the value of this series of yearbooks. If it receives the support which it merits, yearly publication will remove the one difficulty of its lag behind current books, since each yearbook can contain books and reviews appearing only two or three months before its publication. The *Second Yearbook* has been considerably expanded over the first, both in content and in format. Some fields of interest are more fully covered, more than twice as many journals have been used, and excerpts of reviews not appearing in the first yearbook have been printed in the second. Indexes and directories of periodicals, of publishers, and, most important, of subject-matter fields have been added. Another important addition is the use of the name of the author of the book at the top of the page on which the reviews are printed. The type now used is larger and more readable. Technically and fundamentally the *Second Yearbook* is a considerable improvement over the first, and if Mr. Buros is able to follow his plans for expansion into foreign language books and noncritical or possibly original criticisms of periodical literature, those active in research, teaching, and business and industry will have available to them extensive information concerning pertinent current literature.—MORTON S. NAGELBERG, New York City.

What is the rôle of the United States as a great power among the world powers? And what point has it reached as a social entity and as a state? Dr. Max Silberschmidt of the University of Zurich attempts to give the answers in his recent work, *Der Aufstieg der Vereinigten Staaten von Amerika zur Weltmacht* (Aarau, Switzerland, H. R. Sauerländer & Co., 1941; xx, 498 pp. $4.60). His study, primarily designed for Swiss readers, deals with the past forty years, which represent the beginning of an era of social democracy. The transformation from individualism to a more regulated economy was initiated by Theodore Roosevelt and Woodrow Wilson; and Franklin D. Roosevelt undertook to achieve greater social justice through governmental intervention in private economy, an experiment at present interrupted by World War II. Dr. Silberschmidt, aware of Swiss interest in the subject, discusses the political structure of the

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American federal system. In addition, he describes the tortuous foreign policy of the United States, that is, first, western hemisphere isolationism founded on the Monroe Doctrine, then political intervention under Wilson, again strict nationalism for a decade, and, finally, renewed international influence as a highly industrialized and financial world power. The volume is divided into two sections entitled respectively, "The Era of Imperial Expansion and Internal Reforms" (1898-1920) and "The Post-War Period" (1920-1939). Emphasis in the first part is placed on "The Era of Reform" and "Foreign Policy in Central America and in the Far East"; in part two, the author stresses "Domestic Policy and Economic Development in the Twenties" and "Old Deal and New Deal". — PAUL UCKER, San Francisco, California.

CONSERVATION OF SCHOLARLY JOURNALS

The American Library Association created this last year a Committee on Aid to Libraries in War Areas, headed by John R. Russell, librarian of the University of Rochester.

One of the most difficult tasks in library reconstruction after the first World War was that of completing foreign institutional sets of American scholarly, scientific, and technical periodicals. The attempt to avoid a duplication of that situation is now the concern of the Committee. Many sets of journals will be broken by the financial inability of the institution to renew subscriptions. As far as possible these sets will be completed from a stock of periodicals being purchased by the Committee.

With an imminent paper shortage, attempts are being made to collect old periodicals for pulp. Fearing this possible reduction in the already limited supply of scholarly and scientific journals, the Committee hopes to enlist the coöperation of subscribers to this QUARTERLY in preventing the sacrifice of this type of material to the pulp demand. It is scarcely necessary to mention the appreciation of foreign institutions and scholars for this activity.

Questions concerning the project, or concerning the value of particular periodicals to the project, should be directed to Wayne M. Hartwell, executive assistant to the Committee on Aid to Libraries in War Areas, Rush Rhees Library, University of Rochester, Rochester, New York.

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